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# The Safe Alternatives to Segregation Initiative: Findings and Recommendations for the North Carolina Department of Public Safety

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*Jessa Wilcox, Léon Digard, PhD, and Elena Vanko*

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Requests for additional information about this report should be directed to Sara Sullivan at the above address or to [contactvera@vera.org](mailto:contactvera@vera.org).

## Executive Summary

In recent years, a diverse range of international and national bodies, advocates, federal and state policymakers, and corrections practitioners 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 or communities safer, these voices agree that change and innovation are necessary.

In 2015, with funding from the U.S. Department of Justice, Bureau of Justice Assistance, the Vera Institute of Justice partnered with the North Carolina Department of Public Safety (DPS) to help DPS reduce its use of segregation. Vera's assistance included conducting an assessment of DPS's use of segregation and providing ways to decrease its use.

### Key Reforms

During the initiative, DPS began instituting several remarkable reforms, including:

- A prohibition on the use of segregation for youth under 18 years of age;
- The establishment of Therapeutic Diversion Units as an alternative to restrictive housing for people with greater mental health treatment needs;
- The creation of a Rehabilitative Diversion Unit to help transition people from segregation to regular population; and
- Mandated staff training on communication and de-escalation tools, to help limit the use of restrictive housing.

### Key Findings

This report presents the findings of Vera's assessment, which come from a period prior to the enactment of many of these reforms but provide a useful baseline against which DPS can measure the impact of recent and future changes. In conducting its assessment, Vera adopted a broad definition of "restrictive housing" to include any housing unit which satisfies two conditions: it (1) holds incarcerated people separately from regular population and (2) places greater restrictions on out-of-cell time, congregate activity, and access to programming than in regular population. Therefore, housing units such as Death Row, which separated people from regular population but did not place greater restrictions on them, were not included in our assessment. Modified Housing (MODH) units, however, were included since Vera observed a range of practices in various MODH units, including some units where people received only two hours of out-of-cell time per day.

At the time of Vera’s assessment, 44 of DPS’s 56 prisons held people in restrictive housing. On June 30, 2015, 3,432 people—just over 9 percent of the prison population—were in some form of restrictive housing. Excluding people held in MODH from the count would give a restrictive housing population of 2,952 on that date, or 7.9 percent of the incarcerated population. Vera’s findings not only touch on DPS’s use of different types of restrictive housing, but also examine differences in its use between genders, age groups, racial and ethnic groups, and people with different levels of mental health treatment needs.

**People housed in almost all restrictive housing units were held in conditions of isolation and sensory deprivation.**

At the time of the assessment, DPS housed 7.9 percent of the prison population in restrictive housing units characterized by conditions of extreme isolation and sensory deprivation. People in these units spent a minimum of 23 hours a day in their cell with severely limited interaction with other people. Out-of-cell time consisted primarily of individual recreation in a small secure enclosure for one hour a day, five days a week. There was very little, if any, opportunity for programming or congregate activity.

**Disciplinary Segregation was used frequently as a sanction, even for low-level infractions.**

On June 30, 2015, almost 30 percent of the people in restrictive housing were there as a sanction for a disciplinary infraction. Disciplinary segregation was given as a sanction for 99 percent of incidents with a guilty finding, although for one-third of these incidents, the sentence was suspended and then lifted if the person remained infraction-free for 180 days. The top three infractions resulting in a disciplinary segregation sanction were “disobey an order,” “profane language,” and “unauthorized tobacco use.” These three infractions accounted for 40 percent of all disciplinary segregation sanctions.

**Other types of restrictive housing were characterized by long stays.**

DPS had three different housing classifications for incarcerated people held in restrictive housing with an indeterminate length of stay: Intensive Control (ICON), Maximum Control (MCON), and High Security Maximum Control (HCON), with HCON being the most restrictive. On June 30, 2015, 37 percent of all people in restrictive housing were in any of these types of Control housing. Reasons for placement in Control housing ranged from repeatedly disruptive behavior to posing an imminent risk to the life or safety of others. The average length of stay in ICON was approximately nine months; it was twenty-one months for MCON, and almost five years for HCON.

During the initiative, DPS enacted several reforms to Control housing, including the creation of a Rehabilitative Diversion Unit (RDU) designed to help people transition from Control to regular population through the provision of targeted behavioral programming and increasing privileges, congregate activity, and out-of-cell time.

### **Certain groups were overrepresented in restrictive housing.**

Youth, young adults, people with mental health needs, and racial minorities were overrepresented in DPS's restrictive housing units. On June 30, 2015, 32 percent of youth (under 18 years of age) and 17 percent of young adults (18-25 years old) were in restrictive housing, compared to 8 percent of people 26 and older. Incarcerated people who required mental health treatment involving psychotropic medication and therapy, but who did not require placement in a designated mental health unit, made up 8 percent of the regular population but 14 percent of the population in disciplinary segregation and 24 percent of Control housing.

Echoing the fact that racial and ethnic minorities are generally overrepresented throughout the criminal justice system in the United States, racial minorities were disproportionately exposed to restrictive housing. For example, while 35 percent of white incarcerated people had spent at least one night in restrictive housing during the year prior to Vera's assessment, this was true of 47 percent of black individuals and 50 percent of Native American incarcerated people.

### **DPS released some people from segregation directly to the community.**

Releasing people directly from restrictive housing to the community can make an already difficult transition even more challenging. During the 12 months ending on June 30, 2015, DPS released 1,832 incarcerated people directly from restrictive housing to the community. Forty-five percent of these people had spent over one month in segregation directly prior to being released; 15 percent had spent over six months.

## **Key Recommendations**

Vera commends DPS on the steps it has already taken to reform its use of restrictive housing and offers recommendations that will further its efforts to safely reduce that use. The full report details numerous specific recommendations for DPS, including:

- Reduce the number of disciplinary infractions eligible for segregation sanctions and reduce the maximum length of segregation sanctions;
- Expand available alternative sanctions to disciplinary segregation, expand and track the current practice of pre-disciplinary counseling, and encourage other informal ways to resolve minor offenses;
- Maintain and enhance beneficial programming, supports, and structured activities in regular population, to help prevent people from engaging in behaviors that may lead to their placement in restrictive housing;
- Strengthen procedural safeguards around Control housing to ensure that it is truly used as a last resort, only when necessary, and for as short a time as possible, with a cap on the length of time permitted in Control;

- Enact policies that prohibit people with serious, persistent mental illness from being placed in any form of restrictive housing that limits meaningful access to social interaction, environmental stimulation, and therapeutic programming;
- Take individuals' release dates into account when using restrictive housing; use alternative disciplinary sanctions, or placement into housing units with both greater security and a structured reentry process, to ensure that people are not released directly from restrictive housing to the community;
- Improve the conditions of confinement in all restrictive housing units to reduce the negative effects of segregation, including by increasing out-of-cell time and recreation, minimizing isolation and idleness, and providing opportunities for rehabilitative programming; and
- Continue and expand the provision of staff training on de-escalation and communication skills, and expand trainings on mental decompensation and mental health needs.

As the North Carolina Department of Public Safety continues implementation of current and future reforms, Vera is confident that the department will capitalize on its strengths, learn from the experience of others in the field, and use this report to facilitate continued reforms to the use of restrictive housing, in order to improve the lives of those who live and work in North Carolina's prisons and the broader community.

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# About this report

In 2015, with funding from the U.S. Department of Justice, Bureau of Justice Assistance, the Vera Institute of Justice partnered with the North Carolina Department of Public Safety (DPS) to conduct a yearlong assessment of the agency’s use of restrictive housing, a type of incarceration that removes a person from the general population and confines them to an isolated cell for 22-24 hours a day with limited human interaction and minimal, if any, constructive activity.<sup>1</sup> This report outlines the findings of that assessment and provides recommendations to DPS on how to safely reduce its use of restrictive housing. This report includes (1) background information on restrictive housing and the movement to reduce its use, (2) Vera’s assessment process, (3) an overview of restrictive housing in DPS and the department’s commitment to reform, (4) Vera’s findings, a brief overview of reforms that have been implemented in the past year, and Vera’s recommendations, and (5) a conclusion.

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<sup>1</sup> Restrictive housing is also referred to as segregation, isolation, or solitary confinement. This report will generally use the term “restrictive housing,” since this is the language used by DPS.

# 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 management strategy. Recent reports have estimated the number of people in restrictive housing in prisons nationwide to be between 80,000 and 100,000 individuals.<sup>2</sup> The use of segregation remains a mainstay of prison management and control despite mounting evidence pointing to potentially devastating psychological effects on individuals placed there, the increased expense accrued from housing people in restrictive housing compared to regular population, and the harmful safety outcomes within institutions themselves and in the communities to which those who have been held under such severe conditions will return.<sup>3</sup>

As these negative impacts have come to light, concern about the overuse of segregation has grown. A diverse range of national organizations, corrections officials, researchers, policymakers, and international organizations have called for the reform of these practices and the development of more rehabilitative alternatives. Advocacy organizations such as the American Civil Liberties Union have opposed the use of solitary confinement, and media outlets like Solitary Watch and The Marshall Project have published reports, news articles, and fact sheets on the topic.<sup>4</sup> The National Commission on Correctional Health Care recently issued a position statement on isolation encompassing 17 principles and calling for the elimination of “prolonged solitary confinement” (defined as more than 15 consecutive days).<sup>5</sup> And in 2016, the U.S. Department of Justice (DOJ) issued a report calling for widespread reform of restrictive housing practices in the Federal Bureau of Prisons (BOP) and beyond.<sup>6</sup> Subsequently, the Obama Administration adopted the report’s recommendations for the BOP. Professional organizations representing corrections practitioners and administrators have also promoted changes to this practice—the American Correctional Association recently passed new restrictive

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<sup>2</sup> Association of State Correctional Administrators 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.

<sup>3</sup> 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(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).

<sup>4</sup> 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#.MIjJITEOC>.

<sup>5</sup> National Commission on Correctional Health Care, “Position Statement: Solitary Confinement (Isolation),” <http://www.ncchc.org/filebin/Positions/Solitary-Confinement-Isolation.pdf> (accessed June 28, 2016).

<sup>6</sup> U.S. Department of Justice, *Report and Recommendations Concerning the Use of Restrictive Housing: Final Report* (Washington, DC: U.S. Department of Justice, January 2016).

housing standards and the Association of State Correctional Administrators established guiding principles regarding the use of restrictive housing.<sup>7</sup> On the international level, in 2015, the United Nations 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 disabilities.<sup>8</sup> Although non-binding, the Mandela Rules represent widely accepted international principles on the treatment of incarcerated people.<sup>9</sup>

Against this backdrop, several jurisdictions have begun implementing policy changes to reduce the number of adults or youth held in restrictive housing, improve the conditions in restrictive housing units, and facilitate the return of segregated people to a prison’s general population. These reforms have come through agency-driven changes, by state legislation, and through legal settlements.<sup>10</sup> For example, Washington State implemented an innovative step-down program as a pathway to get people out of long-term segregation, the New York legislature passed a law to keep people with serious mental illness from being placed in long-term segregation, and California entered into a landmark settlement that ended indeterminate segregation.<sup>11</sup>

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 is

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<sup>7</sup> American Correctional Association, “Restrictive Housing Performance Based Standards” (2016), [http://www.aca.org/ACA\\_Prod\\_IMIS/ACA\\_Member/Standards\\_\\_\\_Accreditation/Standards/Restrictive\\_Housing\\_Committee/ACA\\_Member/Standards\\_and\\_Accreditation/Restrictive\\_Housing\\_Committee/Restrictive\\_Housing\\_Committee.aspx?hkey=458418a3-8c6c-48bb-93e2-b1fcbca482a2](http://www.aca.org/ACA_Prod_IMIS/ACA_Member/Standards___Accreditation/Standards/Restrictive_Housing_Committee/ACA_Member/Standards_and_Accreditation/Restrictive_Housing_Committee/Restrictive_Housing_Committee.aspx?hkey=458418a3-8c6c-48bb-93e2-b1fcbca482a2); and Association of State Correctional Administrators, “Restrictive Housing Policy Guidelines” (2013), <http://www.asca.net/system/assets/attachments/6145/B.%20ASCA%20Restrictive%20Status%20Housing%20Policy%20Guidelines-Final%2008092013.pdf?1375723019>.

<sup>8</sup> 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.

<sup>9</sup> 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.

<sup>10</sup> 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 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). New York Correction Law § 137 (6)(d)(i). For additional examples of legislative reform, see Colorado SB 11-176 (2011) 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) (among other things, it no longer allows affiliated gang members to be sent to segregation based on affiliation alone).

<sup>11</sup> See *Peoples v. Annucci*, 2016 U.S. Dist. LEXIS 43556 (S.D.N.Y., Mar. 31, 2016).

partnering with the North Carolina Department of Public Safety (DPS) to assess DPS's segregation policies and practices, analyze outcomes of that use, and provide recommendations for safely reducing the use of segregation and enhancing the use of alternative strategies.<sup>12</sup>

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<sup>12</sup> The other jurisdictions working with Vera under this initiative are Nebraska, Oregon, New York City, NY, and Middlesex County, NJ.

## II. Vera's Assessment Process

Vera, in partnership with the North Carolina Department of Public Safety (DPS), conducted an assessment of DPS's use of restrictive housing in state prison facilities between May 2015 and May 2016. Vera worked closely with DPS's designated site coordinators, who are members of the department's leadership team, throughout the assessment. The assessment included three components: analysis of administrative data, policy analysis, and site visits to key facilities.

### Administrative Data Analysis

To gain a clearer understanding of how restrictive housing was being used in DPS facilities, Vera analyzed administrative data relating to any person who was held in DPS custody for any length of time during the period from June 30, 2014 through June 30, 2015. As such, Vera received individual-level data on 64,712 people, dating back to the start of their current sentences. The data included a number of variables relating to:

- Incarcerated people's characteristics, such as demographics, mental health classifications, security risk group (SRG) membership (more colloquially known as gang affiliation), and sentence information;
- Movement files, detailing their placement in and out of restrictive housing statuses and movement between and within facilities; and
- Disciplinary records, with information on infraction charges, pleas, hearing verdicts, and sanctions.

Vera analyzed the data in a number of ways in order to understand who was being placed in restrictive housing, the reasons they were placed there, and how long they stayed.

In addition, June 30, 2015 was used in the analysis as a "snapshot" date. Analysis of the DPS population and the use of segregation on this date describes the context in which Vera's assessment started. This date, coming early in the Vera/DPS collaboration, also provides a baseline from which future changes to the use of restrictive housing can be measured. It does not, however, capture the impact of any reforms that were made during Vera's assessment. Nevertheless, data provided by DPS for June 18, 2016, suggests that the population in restrictive housing has decreased by 10 percent during the year following Vera's data analysis.<sup>13</sup>

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<sup>13</sup> "North Carolina Division of Adult Correction & Juvenile Justice – Section of Prisons Restrictive Housing Fact Sheet," NCDPS, June 21, 2016. Please see Section IV for more details.

## Policy Review

Vera reviewed numerous policies provided by DPS including, but not limited to, policies regarding segregation practices, the disciplinary process, medical and mental health services, and the new Youthful Offender Program. Additionally, DPS provided Vera with the Standard Operating Procedures (SOP) for every facility visited.

## Site Visits

Vera's assessment relies heavily on intensive site visits, where the assessment team had the opportunity to see policies in action and learn about practices on the ground. DPS's site coordinators worked with Vera to ensure that Vera toured facilities with restrictive housing units, specialized populations, and targeted programming. Vera visited a diverse selection of DPS facilities, including:

- Caledonia Correctional Institution
- Central Prison
- Foothills Correctional Institution
- Marion Correctional Institution
- Maury Correctional Institution
- Mountain View Correctional Institution
- North Carolina Correctional Institution for Women
- Orange Correctional Center
- Pasquotank Correctional Institution
- Polk Correctional Institution
- Warren Correctional Institution

At each facility, Vera completed a tour and conducted an informational meeting with the facility superintendent and leaders, corrections officers, hearings officers, correctional counselors, other security personnel, mental health staff, and program staff. Additionally, Vera conducted focus groups of security staff, program staff, and incarcerated people who had spent time in restrictive housing. Through these tours, in-depth meetings, and focus groups, the assessment team learned how segregation is used at each facility and the range of services provided for segregated populations. 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 to the general prison population or community. Finally, the meetings gave facility administrators and staff an opportunity to share their strengths and challenges in general, as well as those related specifically to DPS's use of restrictive housing.

### III. Overview of the North Carolina Department of Public Safety

The North Carolina Department of Public Safety (DPS) oversees the care and custody of more than 37,000 incarcerated people. DPS employs almost 20,000 people in 56 prison facilities around the state. At the time of Vera’s assessment, 44 of these facilities had restrictive housing units. Since the assessment, DPS has made some changes in its restrictive housing, such as consolidating two Control housing classifications. The Findings section of this report will use the names and housing units that were used during the time of the assessment. The Reforms section will use the terms for the new housing units, as will the Recommendations section.

#### Restrictive Housing

At the time of Vera’s assessment, DPS used the following forms of restrictive housing.

##### **Restrictive Housing for Disciplinary Purposes (RHDP)**

Incarcerated people who violate facility rules can be removed from regular population and placed into RHDP as punishment.<sup>14</sup> People are assigned to RHDP for a specific number of days, based on the severity of the infraction. At the time of Vera’s assessment, sanctions ranged from a maximum of 15 days for a Class D infraction to 60 days for a Class A infraction (the most severe). Incarcerated people have the option of pleading guilty to Class D-B infractions in exchange for receiving the sanction given for one lower class of infraction. People in RHDP remain in their cells all day, except for the opportunity to have out-of-cell recreation alone, one hour a day, five days a week.<sup>15</sup> There were 48 RHDP Units at the time of assessment.

##### **Restrictive Housing for Administrative Purposes (RHAP)**

RHAP is the temporary removal of an incarcerated person from regular population to confinement in a secure area. Length of stay in RHAP is capped at 60 days. There are five authorized reasons for placing someone in RHAP: “(1) to protect staff or others from the threat of harm, (2) to minimize the risk of escape, (3) to preserve order where other methods of control have failed, (4) to provide necessary control while completing an investigation, or (5) to remove someone from the population as a ‘cooling off’ measure.”<sup>16</sup> People in RHAP remain in their cells, except for the opportunity to recreate alone one hour a day, five days a week.

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<sup>14</sup> North Carolina Department of Public Safety, Prisons Policy and Procedure Manual (“Policy and Procedure Manual”), Chapter B, Section .0200, “Inmate Disciplinary Procedures” (Issue Date: 03/28/16).

<sup>15</sup> In this section, information on conditions of confinement and out-of-cell time comes from Policy and Procedure Manual, Chapter C, Section .1200, “Conditions of Confinement” (Issue Date: 03/02/15).

<sup>16</sup> Policy and Procedure Manual, Chapter C, Section .0300, “Restrictive Housing for Administrative Purposes” (Issue Date: 05/10/16).

## Control Housing

DPS had three distinct classifications, increasing in restrictiveness, for non-punitive, indeterminate restrictive housing: Intensive Control (ICON), Maximum Control (MCON), and High Security Maximum Control (HCON). For an incarcerated person in HCON to reenter regular population, he must first have been promoted to MCON and then promoted to ICON; a person in MCON must have been promoted to ICON before reentering regular population. In 2016, DPS consolidated ICON and MCON into one status, Restrictive Housing for Control Purposes (RHCP).

### Intensive Control (ICON)

Intensive control was the long-term removal of individuals from general population, intended for “the control of offenders whose behavior has proven to be repeatedly disruptive to the operations of the facility, non-compliant with instructions and orders, or as a transition following assignment to maximum control status.”<sup>17</sup> People in ICON remained in their cells except for the opportunity for one hour of out-of-cell recreation, five days a week, in a secure recreational enclosure. ICON housing status was reviewed every 180 days. At the time of Vera’s assessment there were 15 ICON units.

### Maximum Control (MCON)

“Maximum Control [was] the isolation of close custody felon or minimum custody Level I misdemeanor inmates who pose an imminent threat to the life or health of other inmates or staff or that otherwise pose a most serious threat to the security and integrity of a prison facility.”<sup>18</sup> Individuals in MCON had limited contact with staff and no contact with other incarcerated people. They ate in their cells and had the opportunity for one hour of out-of-cell recreation alone, five days a week, in a secure recreational enclosure. MCON status was reviewed every six months, and inmates leaving MCON had to next go to ICON. At the time of Vera’s assessment there were 11 MCON Units.

### High Security Maximum Control (HCON)

High Security Maximum Control is the isolation of close custody individuals who “pose, or continue to pose, an imminent threat to the life or health of other inmates or staff, or otherwise pose a serious threat to the security and integrity of a prison facility.”<sup>19</sup> Individuals in HCON are generally kept isolated for 24 hours a day, including showering in their cell and recreation for an hour, five days a week, in an indoor area directly attached to their cell—in

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<sup>17</sup> Policy and Procedure Manual, Chapter C, Section .1300, “Intensive Control” (Issue Date: 03/02/15), p. 1. This policy has been rescinded and replaced by: Policy and Procedure Manual, Chapter C, Section .1300, “Restrictive Housing for Control Purposes” (Issue Date: 05/10/16).

<sup>18</sup> Policy and Procedure Manual, Chapter C, Section .0400, “Maximum Control” (Issue Date: 03/02/15), p. 1. This policy has been rescinded and replaced by: Policy and Procedure Manual, Chapter C, Section .1300, “Restrictive Housing for Control Purposes” (Issue Date: 05/10/16).

<sup>19</sup> Policy and Procedure Manual, Chapter C, Section .1700, “High Security Maximum Control” (Issue Date: 03/02/15), p. 1.

contrast to other Control housing units where policy allows for outdoor recreation in a secure recreation enclosure. HCON housing assignments are reviewed at a minimum every six months. DPS has one HCON unit, housed at Polk Correctional Institution. There is no HCON unit for women, but DPS can impose HCON-like restrictions for women housed at North Carolina Correctional Institution for Women.

### **Modified Housing (MODH)**

Modified Housing is “the assignment of regular population inmates housed in close or medium custody, to an area designated to provide increased security and observation.” Individuals in MODH are still technically in general population, but “[b]ecause they pose a threat to the security of the institution, some of their privileges may be limited.”<sup>20</sup> At the time of assessment, department policy allowed incarcerated people to be placed in MODH for a minimum of 90 days and required a minimum of two hours per day out-of-cell time and the opportunity for one hour out-of-cell recreation, outdoors, three times per week.

### **Protective Control (PCON)**

Protective Control is a separate and secure housing assignment used when an “inmate’s life or well-being may be threatened...in the general population.”<sup>21</sup> People housed in PCON are segregated from the regular population, but are not held in the same restrictive conditions as RHDP, RHAP, and other Control units. People are allowed to freely congregate in the dayroom and there is a PCON yard for congregate recreation. At the time of Vera’s assessment there were 37 PCON beds in two DPS facilities.

## **Commitment to Reform**

Vera’s partnership with DPS was exceptionally collaborative and productive, thanks in large part to the department’s demonstrated commitment to reforming and reducing its use of restrictive housing, apart from its work under this Initiative. In particular, DPS has shown a commitment to transforming the culture within its prison facilities to one focused less on restrictive housing and one that recognizes “communication as the first, and typically the best, most powerful intervention in addressing inmates’ needs safely.”<sup>22</sup>

Beginning prior to participating in the initiative, and continuing parallel to Vera’s assessment process, DPS has enacted a number of notable reforms. These include:

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<sup>20</sup> Policy and Procedure Manual, Chapter C, Section .2300, “Close Observation Housing for Regular Population” (Issue Date: 01/06/09), p. 1. This policy has been replaced by Policy and Procedure Manual, Chapter C, Section .2300, “Modified Housing for Regular Population” (Issue Date: 05/12/16).

<sup>21</sup> Policy and Procedure Manual, Chapter C, Section .1100, “Protective Control” (Issue Date: 03/02/15), p. 1.

<sup>22</sup> Commissioner W. David Guice, Division of Adult Correction and Juvenile Justice, DPS, written testimony to the U.S. Senate Committee on the Judiciary, “Breaking the Cycle: Mental Health and the Justice System,” February 10, 2016.

- Reducing the percentage of its population in restrictive housing from just over 14 percent to just over 9 percent between June 2014 and June 2015.<sup>23</sup>
- Reforming long-term segregation by creating the Rehabilitative Diversion Unit (RDU), a step-down program for incarcerated people in restrictive housing that aims to provide intensive programming and increased out-of-cell time and congregate activity, with the goal of successfully returning people more quickly to regular population. DPS established an RDU at Marion Correctional Institution in early spring 2016 and plans to open up a second one at Pasquotank Correctional Institution in the near future.
- Prohibiting or severely limiting the use of restrictive housing for certain populations. In particular, DPS adopted a new policy that prohibits the placement of youthful offenders (those under 18 years of age) in restrictive housing.<sup>24</sup> DPS also created a new policy that makes clear that “placement of a mentally ill inmate in restrictive housing should only occur as a last resort and for no longer than 30 days in one calendar year.”<sup>25</sup>
- Establishing Therapeutic Diversion Units (TDU) as an alternative to restrictive housing for people with serious and persistent mental illness. In a TDU, people will receive intensive out-of-cell treatment (at a minimum, a weekly 10 hours of structured and 10 hours of unstructured out-of-cell time in a more therapeutic environment). Additionally, all staff working in the TDUs will be trained in crisis management, with a special emphasis on how to interact with people with intensive mental health needs.
- Developing a “treatment mall” for individuals at the DPS inpatient mental health facility, where individuals can receive 20 hours a week of out-of-cell, structured activity aimed at skill development, emotional regulation, and support.
- Providing specialized training, including Crisis Intervention Team Training (CIT) that provides staff with communication and de-escalation tools, and Mental Health First Aid training to relevant staff.

The North Carolina Department of Public Safety has demonstrated a strong commitment to reforming their use of restrictive housing. We hope that the findings and recommendations below will help DPS further reduce its use of segregation, and we look forward to working with DPS on the implementation of reforms.

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<sup>23</sup> Data from North Carolina Department of Public Safety, “Application for Technical Assistance: Safe Alternatives to Segregation Initiative,” submitted January 30, 2015; and data from Vera’s assessment.

<sup>24</sup> DPS refers to youth who have been criminally convicted as adults as “youthful offenders;” for purposes of this report, Vera will use this term.

<sup>25</sup> North Carolina Department of Public Safety, Health Services Policy and Procedure Manual, Policy # TX-III-9, “Suicide Prevention Program” (Effective Date: 09/01/16).

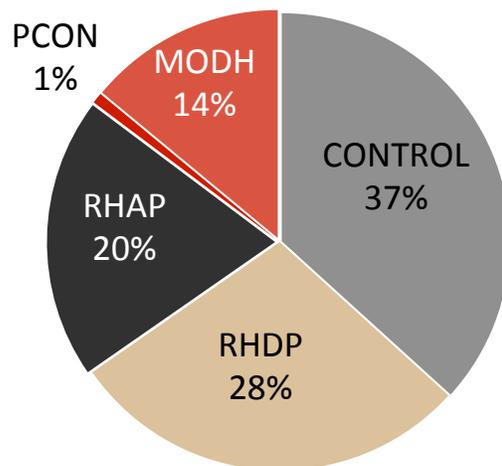
## IV. Findings, Reforms, and Recommendations

In conducting its assessment, Vera adopted a broad definition of “restrictive housing” to include any housing unit which satisfies two conditions: it (1) holds incarcerated people separately from regular population and (2) places greater restrictions on out-of-cell time, congregate activity, and access to programming than in regular population. Therefore, housing units such as Death Row, which separated people from regular population but did not place greater restrictions on them, were not included in our assessment. It should be noted that Vera did include incarcerated people held in Modified Housing (MODH) in its figures for restrictive housing. Vera observed a range of practices in MODH units, including some units where people received only two hours of out-of-cell time per day.

On June 30, 2015, 3,432 people—just over 9 percent of the North Carolina Department of Public Safety’s (DPS) prison population—were in some form of restrictive housing.<sup>26</sup> Over one-third of the restrictive housing population was in Control housing, 28 percent were serving a disciplinary sanction (RHDP), and one-fifth were in restrictive housing for administrative purposes (RHAP). (See Figure 1.) Excluding people held in MODH from the count would give a total restrictive housing population on June 30, 2015 of 2,952, or 7.9 percent of the incarcerated population at that time.<sup>27</sup>

Figure 1

**Restrictive Housing Breakdown (on June 30, 2015)**



<sup>26</sup> This number includes individuals in Control, RHDP, RHAP, MODH, and PCON, as shown in Figure 1. See Section III for explanations of these types of restrictive housing.

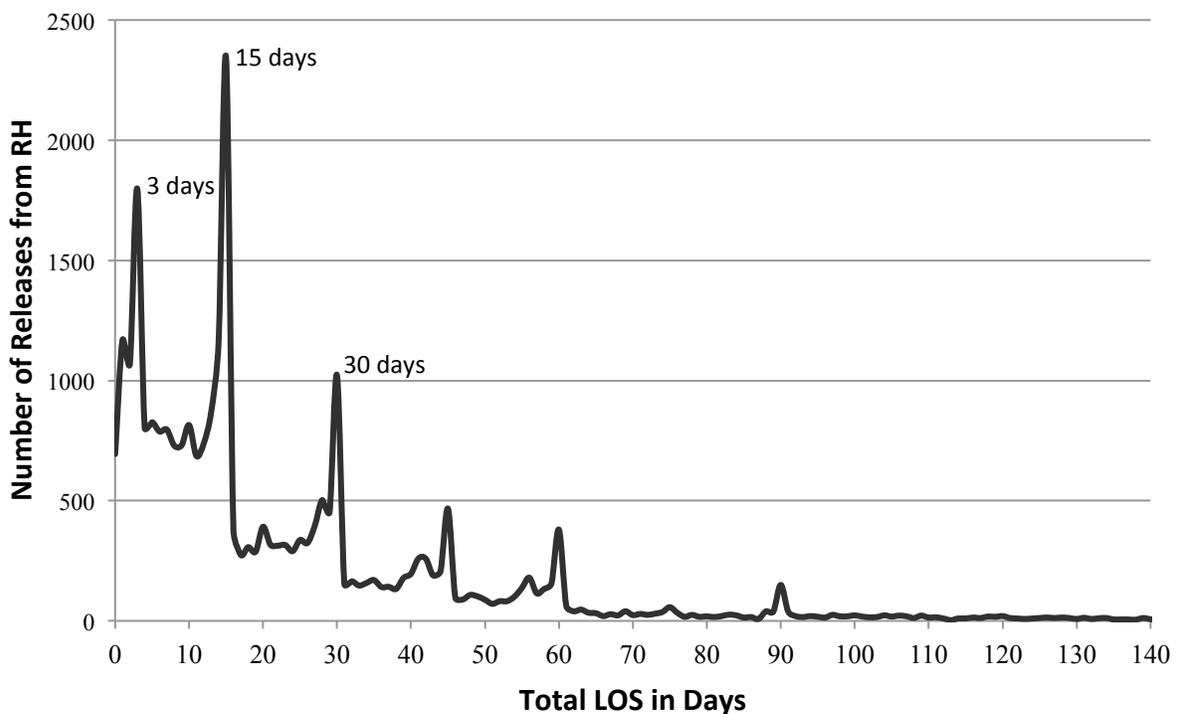
<sup>27</sup> Figures provided by DPS show that in June 2016 (one year after Vera’s data analysis), 2,656 people—or 7.2 percent of the incarcerated population at that time—were held in restrictive housing, excluding MODH. DPS reports that standard practice for MODH is now to adhere to regular population conditions. See “North Carolina Division of Adult Correction & Juvenile Justice – Section of Prisons Restrictive Housing Fact Sheet,” NCDPS, June 21, 2016.

While 9.2 percent of incarcerated people were in restrictive housing on the snapshot date, 42 percent of the population who had been in DPS custody for a year or more had spent at least one night in restrictive housing during the previous 12 months.

During that same year, Vera counted 30,244 releases from restrictive housing to either regular population housing or the community.<sup>28</sup> Their average length of stay in restrictive housing (on any status) was 44 days. However, this average is skewed by a smaller number of people with significantly high lengths of stay (the highest in this dataset was just under 18 years). Most periods of segregation were substantially lower than the average. (See Figure 2.) Indeed, 50 percent of releases from restrictive housing happened within 15 days.<sup>29</sup> Peaks in lengths of stay were seen at 3, 15, 30, 45, and 60 days. As described later in the report, this is likely a consequence of common sentencing practices to restrictive housing for disciplinary purposes.

Figure 2

### Length of Stay (LOS) in Restrictive Housing



The following are findings on DPS’s use of restrictive housing, a brief discussion of reforms DPS is in the process of implementing around restrictive housing, and recommendations on how DPS could further reduce its use.

<sup>28</sup> One person may enter and leave restrictive housing multiple times during a year; the 30,244 movements out of restrictive housing relate to 18,575 individual people.

<sup>29</sup> Fifteen days was both the median and modal length of stay.

## A. System-wide Findings & Recommendations

### Findings

**Finding A1. DPS is in the process of re-missioning many facilities and re-examining housing classifications.** DPS has 56 facilities, 44 with some form of restrictive housing units. W. David Guice, Commissioner of the Division of Adult Correction and Juvenile Justice, has described DPS's re-missioning initiative as aimed at identifying the most appropriate mission for each facility, in order to best help incarcerated individuals become law-abiding and contributing members of the community. The missions for each facility will be re-examined based on the needs of its population, the location and capacity of the facility, staffing, and the most effective use of resources.<sup>30</sup>

**Finding A2. DPS is reconsidering how incarcerated people are managed and how correctional officers and other staff relate to, and interact with, the incarcerated population.** From an analysis of the administrative data provided by DPS, it appears that staff have been reliant on disciplinary segregation as a primary way to punish undesirable behavior and to assert and maintain control over facilities. Some officers Vera spoke with felt that strict discipline and frequent use of restrictive housing were necessary to maintain security, while others reported a greater focus on communication with incarcerated people and using counseling and other alternatives.

Under Commissioner Guice, DPS emphasizes the “recognition of communication as the first, and typically the best, most powerful intervention in addressing inmates’ needs safely and professionally.”<sup>31</sup> DPS is working to provide Crisis Intervention Team (CIT) training and other de-escalation training to all prison employees. Mental Health First Aid training was added to the annual staff training in July 2016. This emphasis on communication between staff and incarcerated people is a shift from the historical prohibition against fraternizing with incarcerated people, which had the practical effect of discouraging even appropriate and beneficial communication between staff and incarcerated people.

**Finding A3. Many incarcerated people “self-select” into restrictive housing as de facto protective custody.** Staff in every facility Vera visited reported that a number of incarcerated people were committing infractions with the specific aim of being put into restrictive housing, because they feared for their safety in regular population. Staff reported that some of these people had requested to be placed into Protective Control (PCON) and were denied, while others never asked, likely because of the belief that PCON was not an option. This

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<sup>30</sup> David Guice, “NC Prison System to Focus on Getting Inmates Ready for Re-Entry,” *The News & Observer*, July 8, 2016.

<sup>31</sup> Commissioner W. David Guice, Division of Adult Correction and Juvenile Justice, DPS, written testimony to the U.S. Senate Committee on the Judiciary, “Breaking the Cycle: Mental Health and the Justice System,” February 10, 2016.

has resulted in an increased number of infractions (potentially even serious infractions) and an increased population in restrictive housing.

- a. According to staff, this behavior seems particularly common among young people, those serving their first prison sentence, and others who are vulnerable in some way.
- b. Additionally, staff reported that many people who “self-select” are afraid of violence related to security risk groups (SRGs) or being pressured to join an SRG through violence and extortion.

**Finding A4. DPS faces serious challenges presented by staff shortages and vacant positions in many facilities.** During Vera’s assessment, staffing vacancies were approximately 9-10 percent statewide, with the numbers closer to 14-20 percent in restrictive housing facilities. Some facilities faced vacancy rates as high as 26-30 percent. Vera is aware that DPS is taking active measures to address this shortage, such as granting an 8 percent raise to correctional officers who work in close custody units and using new psychological screening and employment testing tools. Additionally, some facility staff discussed the particular challenges faced by young and inexperienced correctional officers, who are often supervising incarcerated people of similar ages and backgrounds. Finally, staff pointed to a shortage of mental health workers as posing a significant challenge to the safe and orderly operation of their facilities. The reasons for such shortages varied by region and by facility, including location in an isolated geographic region or a competitive job market.

**Finding A5. While some facilities have jobs, pro-social activities, and incentives available to incarcerated people, many of these people still experience idleness and lack effective incentives to encourage positive behavior.** Vera frequently heard from staff that their facilities struggled to provide their populations with enough activities to constructively fill their time or with incentives for good behavior to assist in behavioral management. Specifically, staff expressed concern that promotion to medium custody was an insufficient incentive for those held in close custody, due to a lack of additional privileges and programming. In addition, as the restrictive housing population decreases, even more jobs and activities will be needed for the increased regular population. One challenge to providing programming and incentives is having adequate resources (in terms of staff time, financial resources, and physical space); another, however, is fostering staff buy-in to the idea that rewarding good behavior is a powerful behavioral management tool. Vera heard that even in situations where potential incentives were paid for by trust funds of incarcerated individuals (rather than by the DPS budget), many staff were resistant to the concept of providing such incentives.

**Finding A6. There was disproportionate minority contact with restrictive housing.** Data analyzed by Vera showed that while 35 percent of the white incarcerated population had

spent at least one night in restrictive housing during the previous year, this was true of 47 percent of black and 50 percent of Indian (Native American) individuals.<sup>32</sup> (See Table 1.)

Table 1

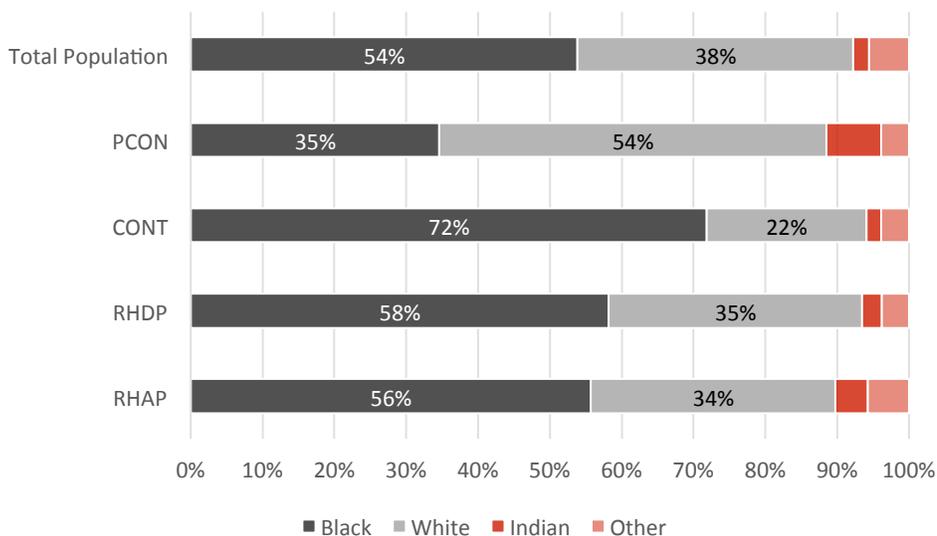
**Contact with Restrictive Housing (RH), by Race**

Race <sup>33</sup>	Number of individuals with RH contact within one year	Total population	Percent of population with RH contact
Black	6,451	13,647	47.3%
White	3,049	8,724	35%
Other/Unknown	505	1,538	32.8%
Indian	273	544	50.2%

A breakdown of the snapshot population by race shows that incarcerated people who identified as black were overrepresented in all forms of restrictive housing, with the exception of Protective Control, where there was a higher representation of white people. The disparity was most apparent in Control housing (ICON, MCON, and HCON): while black people accounted for 54 percent of the total incarcerated population, they accounted for 72 percent of those held in Control housing on the snapshot date. (See Figure 3.)

Figure 3

**Restrictive Housing Population vs. Total Population, by Race**



<sup>32</sup> These figures refer to the snapshot date population (on June 30, 2015) and only count those who had been in DPS custody for at least one year at that point.

<sup>33</sup> The race categories presented here are those that were provided by DPS in their dataset.

## Recommendations

**Recommendation A1. Ensure that a continuing focus of the re-missioning process is the reduction of restrictive housing.**

- a. Develop processes and designated staff to ensure communication and coordination throughout DPS regarding restrictive housing reform.** This can help with implementation, allow people to understand reforms and their purposes, and share successful practices throughout the system.
- b. Create procedures for sharing DPS data and findings with staff throughout the system, particularly regarding restrictive housing reforms.** Ensure staff at all levels understand how the data relate to their facility, unit, and job.
- c. As the restrictive housing population decreases and the Control population is consolidated in the Rehabilitative Diversion Units (RDUs), ensure that emptied restrictive housing beds are not used for other forms of restrictive housing, but are instead repurposed.** Some ideas for repurposing include expanding program-heavy modified housing or other mission-specific housing (as discussed in Recommendation A3(b), below).

**Recommendation A2. Continue to provide staff with de-escalation and communication training and trainings on mental decompensation and mental health needs.** DPS is currently in the process of providing all staff with Crisis Intervention Team (CIT) training. Staff in the residential mental health units and Therapeutic Diversion Units will also receive Mental Health First Aid training. Vera heard universally positive comments from staff regarding CIT training, and it is imperative that continuous training is provided on how to not only respond to mental health crises, but also prevent them from occurring whenever possible.

- a. Provide greater opportunities for cross-training between custody, program, and mental health staff.** This will increase understanding among all staff on both the benefits of programming and treatment for behavioral change and the challenges presented in keeping a facility safe.
- b. Prioritize training at the unit manager level, so unit managers can model de-escalation techniques and reinforce their importance.** Many new correctional officers are young and are only mentored for a brief time at the beginning of their employment. Increasing the opportunities for modeling and mentorship will assist in furthering the goals of improved communication and crisis de-escalation.

- c. Implement coaching as a follow-up and complement to classroom-style training.** Coaching by trained instructors or supervisors is a key element in the implementation of nationally recognized evidence-based practices.<sup>34</sup> Coaching ensures effective and correct implementation, supports staff in practicing and using new tools and approaches, and furthers accountability.

**Recommendation A3. Develop strategies to reduce the number of people in custody who commit infractions in order to use restrictive housing as de facto protective custody.**

- a. For young people, individuals serving their first prison sentence, and other potentially vulnerable individuals, develop targeted orientations to ease their transition to life in DPS custody, and consider assigning them peer mentors.** For example, the Pennsylvania Department of Corrections has seen great success with the use of Certified Peer Specialists. It has trained more than 500 incarcerated people to provide support services to other individuals on a variety of issues, including participation in mental health treatment. Peers are used in all housing units and assist in education and hospice programs, receive specialized training including suicide prevention, and are scheduled to undergo newly developed trauma training to increase support to those who continue to be impacted by past trauma.
- b. Consider creating mission-specific housing units that mix compatible, vulnerable populations in a regular population setting.** These units should have careful screening for entrance—such as no incarcerated people who screen as high risk for abusiveness—but could mix various at-risk populations that can safely congregate in an open, supervised setting. Out-of-cell time should mirror that in regular population; congregate activities, programming, and treatment should be available during the day; and interactions with service providers and counselors should be face-to-face rather than through a cell door. To lessen the stigma sometimes attached to Protective Control, mission-specific housing can use different nomenclature. For example, the Washington State Department of Corrections provides missioned housing for developmentally disabled individuals (the Skill Building Unit), people requiring a transitional mental health program (Crossroads), senior citizens, and veterans, and runs treatment units for people convicted of sex offenses, people with chemical dependency, and people with greater mental health needs. Similarly, the New Mexico Department of Corrections houses incarcerated people with sex offense convictions, ex-law enforcement officers, and gang members requiring protection in housing units separate from the general population but which operate similarly to regular population housing.

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<sup>34</sup> See, for example, University of Cincinnati Corrections Institute, “Effective Practices in Community Supervision” (EPICS), [https://www.uc.edu/corrections/services/trainings/effective\\_practices\\_in\\_community\\_supervision.html](https://www.uc.edu/corrections/services/trainings/effective_practices_in_community_supervision.html) (accessed December 1, 2016).

- c. **Explore violence prevention strategies for regular population.**<sup>35</sup> Successful violence reduction strategies could lead to a reduced use of disciplinary segregation and Control housing, as well as a reduction in self-selection into restrictive housing, due to people feeling safer in regular population. Washington and Pennsylvania have piloted and seen some early success in using a group violence reduction strategy based on the “Operation Ceasefire” deterrence model.<sup>36</sup> In the model’s first year of implementation at a Washington pilot facility, assaults against staff, the use of weapons, and multi-person fights were reduced by 50 percent.<sup>37</sup>

**Recommendation A4. Conduct an assessment to determine what contributes to difficulties in filling positions and retaining staff.** Note that there may be multiple and different factors at play for different facilities (such as remote locations, salary, and perceived opportunity for advancement). Use the information garnered from the assessment to design a staffing plan to further address these issues through policy changes, trainings, staff development, advocacy for additional resources, or other means.

**Recommendation A5. Maintain and expand beneficial programming, education, and activities for incarcerated individuals.** Research has shown that less programming available for incarcerated people increases idleness and poor behaviors, such as assaults.<sup>38</sup> Many DPS staff spoke of beneficial relationships with community colleges and non-profit organizations; these types of relationships should be maintained and enhanced. Opportunities should also be increased for informal, positive activities or incentives led by staff, volunteers, or incarcerated people. Ensure that incarcerated people who have learning disabilities, are developmentally disabled, or have English language deficiencies are able to meaningfully participate in the programming.

**Recommendation A6. Allow incarcerated people in regular population (and those in restrictive housing) to have access to a quiet place for a brief cooling off period, as an alternative to being placed immediately into segregation.** The length of time authorized for cooling off should be measured in terms of hours rather than days, to provide the incarcerated person an opportunity to regain his or her composure and then safely re-enter regular population. DPS could create a de-escalation room or cooling off space in each unit, to make these cooling-off periods more effective. DPS could consider creating something similar to

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<sup>35</sup> For more information on violence prevention strategies, see Violence Reduction Network, “Violence Reduction Clearinghouse,” <https://www.vrnetwork.org/Clearinghouse> (accessed December 1, 2016).

<sup>36</sup> See National Network for Safe Communities, “Prison Violence Intervention,” <https://nnscommunities.org/our-work/strategy/prison-violence-intervention> (accessed December 1, 2016).

<sup>37</sup> Dan Pacholke and Sandy Felkey Mullins, *More than Emptying Beds: A Systems Approach to Segregation Reform* (Washington DC: Bureau of Justice Assistance, 2016).

<sup>38</sup> Benjamin Steiner and John Wooldredge, “Rethinking the Link Between Institutional Crowding and Inmate Misconduct,” *The Prison Journal* 89, no 2 (2009): 205-233.

Oregon’s “Blue Room,” which gives individuals in a restrictive housing unit the opportunity to view nature videos in a cell. While the data is preliminary, the rate of disciplinary infractions is higher for those individuals who did not use the Blue Room compared to the rate for those who did.<sup>39</sup> Colorado has also seen success with its use of de-escalation rooms in its residential mental health units; people can request to go into the de-escalation rooms, stay as long as they feel they need, and then request to leave when they are ready.<sup>40</sup>

**Recommendation A7. Create a committee to study, monitor, and address disproportionate minority contact with the disciplinary process and representation in restrictive housing units.** In a 2015 report, the Brennan Center for Justice recommended the creation of cross-departmental task forces to address racial and ethnic disparities in jails.<sup>41</sup> Applying this idea to a state correctional system, DPS could use this kind of committee to better understand why there is disproportionate contact with restrictive housing, address the issues discovered, and monitor any effects of reforms on such contact. In general, DPS data collection and reporting on restrictive housing should include breakdowns by race.

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<sup>39</sup> National Institute of Corrections, “Oregon Prison Tackles Solitary Confinement with Blue Room Experiment,” August 26, 2014.

<sup>40</sup> See Colorado Department of Corrections, “Residential Treatment Programs for Offenders with Mental Illness and Intellectual and Developmental Disabilities,” in Administrative Regulation 650-04, Chapter: Offender Group Living, 5.

<sup>41</sup> Jessica Eaglin and Danyelle Solomon, *Reducing Racial and Ethnic Disparities in Jails: Recommendations for Local Practice* (New York City: Brennan Center for Justice at New York University School of Law, 2015), 33-35.

## B. Restrictive Housing for Disciplinary Purposes

The following section will address DPS’s use of Restrictive Housing for Disciplinary Purposes (RHDP) and provide recommendations on how to reduce that use.

### Findings

**Finding B1. Almost 30 percent of the population in restrictive housing on the snapshot date (981 people) was in RHDP.**

**Finding B2. Disciplinary segregation was given as a sanction for over 99 percent of incidents with a guilty finding.** From June 30, 2014 through June 30, 2015, DPS resolved 48,142 disciplinary incidents.<sup>42</sup>

Table 2 below lists the number of incidents with a guilty finding that resulted in segregation, as sanctioned by staff at various levels.<sup>43</sup> As can be seen, segregation sanctions were given in response to an incident with a guilty finding in just over 99 percent of all cases, at each level.

Table 2

**Segregation vs. Non-Segregation Disciplinary Sanctions**

Level of Incident Resolution	Non-Segregation Sanction	Segregation Sanction	Total
Unit Manager	166	24,444	24,610
	.7%	99.3%	100%
Disciplinary Hearing Officer	54	20,131	20,185
	.3%	99.7%	100%
Appeals	4	2,965	2,969
	.1%	99.9%	100%
Total	224	47,540	47,764 <sup>44</sup>
	.5%	99.5%	100%

<sup>42</sup> A disciplinary “incident” in this report refers to one or more infractions that were committed by one person at the same time on the same date. Thus, while inmates were charged with 79,243 infractions during this year period, Vera counted 60,591 *incidents*. 48,142 (80 percent) of these incidents included at least one guilty finding. Unit Managers resolved incidents over 50 percent of the time, and Disciplinary Hearing Officers (DHO) resolved incidents over 40 percent of the time. According to policy, disciplinary infractions can be resolved by the Unit Manager (if the alleged infraction is a Class B or less) or by the DHO. Incarcerated people who are found guilty (but do not plead guilty) of a disciplinary offense can appeal the decision, which happened six percent of the time. If an incarcerated person pleads guilty, the Unit Manager or DHO will give the sanction for an infraction one severity level lower (for example, if an individual pleads guilty to a Class B infraction, they receive the sanction for a Class C infraction).

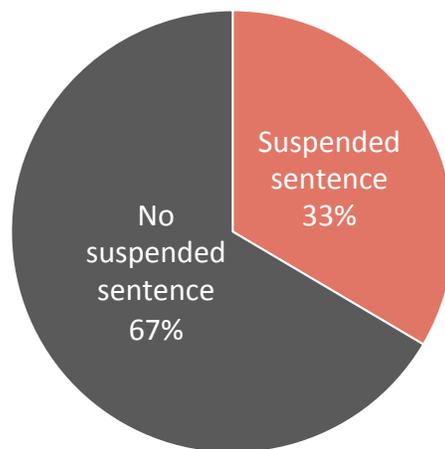
<sup>43</sup> Incidents are only counted once, at the highest level of review at which they were processed.

<sup>44</sup> This N is different from the number of total incidents because some cases included infractions dealt with at different levels. 47,764 is the number of cases in which all infractions were dealt with on the same level. 378 incidents had guilty verdicts and contained infractions dealt with at multiple levels.

**Finding B3. Disciplinary segregation sanctions were suspended for one-third of incidents.** When a disciplinary segregation sanction is imposed, it may be suspended for 180 days (although a DPS draft policy would limit this suspension duration to 90 days). If the incarcerated person remains infraction free during that time, the sanction is lifted; if they commit another infraction, the suspension can be revoked and the disciplinary segregation imposed. Disciplinary segregation was suspended in 33 percent of cases during the year ending June 30, 2015 (see Figure 4); however, some of these suspensions may have been revoked due to the individual not remaining infraction-free during the suspension period (the data does not indicate this number).

Figure 4

**Use of Suspended Disciplinary Segregation Sentences**



**Finding B4. Disobeying an order, profane language, and unauthorized tobacco use were the three most frequent infractions that resulted in disciplinary segregation, and accounted for 40 percent of all disciplinary segregation sanctions.** (See Table 3.)

The current disciplinary policy allows restrictive housing to be imposed as a sanction for any infraction, including minor, non-violent ones. Possessing stamps “in excess of the authorized amount,” for example, is a Class C offense that can garner up to 30 days disciplinary segregation.<sup>45</sup> Up to 15 days segregation can be given for even the lowest class of infractions (Class D), which includes minor offenses such as “fail[ure] to go to bed when the lights are dimmed” (D6) and “fail[ure] to observe basic standards of personal hygiene” (D13).<sup>46</sup> As the

<sup>45</sup> Just over 500 segregation sentences were given for this charge during the year studied by Vera; approximately 60 percent of these sentences were suspended.

<sup>46</sup> Policy and Procedure Manual, Chapter B, Section .0200, “Inmate Disciplinary Procedures” (Issue Date: 03/28/16).

table below shows, lower-level infractions account for a large percentage of the infractions that resulted in disciplinary segregation.

Table 3

**Top 10 Infractions Leading to Disciplinary Segregation**

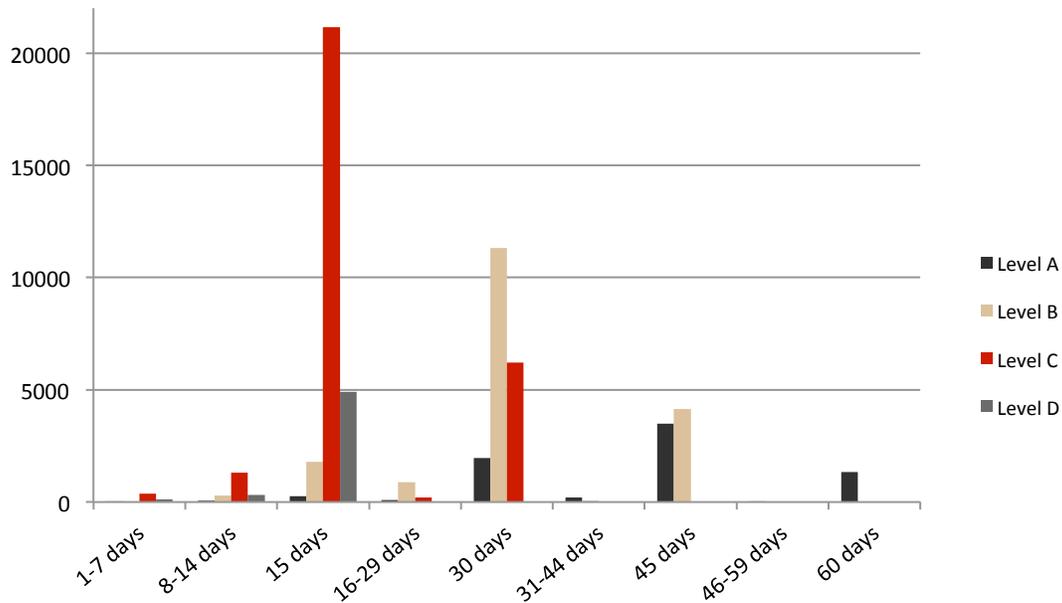
<b>Infraction Resulting in RHDP Sentence</b>	<b>Severity Level</b>	<b>Frequency</b>	<b>Percent of Total</b>
Disobey Order	C	12,046	19.9%
Profane Language	C	6,065	10%
Unauthorized Tobacco Use	B	5,990	9.9%
Sexual Act	B	2,810	4.6%
Fighting	C	2,742	4.5%
Unauthorized Location	D	2,688	4.4%
Unauthorized Leave	C	2,336	3.9%
Theft of Property	C	2,011	3.3%
Lock Tampering	B	1,837	3%
No Threat Contraband	D	1,800	3%

**Finding B5. In addition to RHDP, individuals who are sanctioned also face other consequences that are not consistent with principles of effective recidivism reduction.** In particular, 42 percent of incidents resulted in the loss of phone privileges, and 44 percent of incidents resulted in loss of visits, in addition to receiving a disciplinary segregation sanction. Additionally, every incarcerated person is charged a \$10 fine when found guilty of an infraction.

**Finding B6. Incarcerated people were generally given the maximum disciplinary segregation sanction allowed for the applicable class of offense.** The data show that sentences to RHDP were clustered at the 15, 30, 45, and 60 day marks (the maximum disciplinary segregation sanctions allowed for Class D through A offenses, respectively; though per policy, if an incarcerated person pleads guilty, he or she is eligible to receive the length of disciplinary time for the next level lower). (See Figure 5.)

Figure 5

**Disciplinary Segregation Days, by Infraction Severity Level**



**Finding B7. Some facilities have long backlogs of incarcerated people who were given a disciplinary segregation sanction but are waiting for a cell to become available so they can serve their sanction.** Vera visited facilities with full restrictive housing units, and therefore with backlogs listing incarcerated people—some as long as 18 pages—waiting to serve their disciplinary sanction while continuing to live in regular population. Yet these facilities reported that individuals awaiting disciplinary segregation had generally not jeopardized the safety of the facility during that time.

**Finding B8. People in RHDP have very limited options for out-of-cell time, access to congregate activity, and programming.** No programming is provided, and opportunities for interactions with other people are extremely limited. Recreational opportunities vary between facilities, but recreation is typically not offered beyond what the current policy requires: one hour a day, five days a week. Staff at several facilities reported that even this minimum requirement was often not met due to resource constraints. In some facilities, outdoor recreation was infrequently offered, and in at least one facility Vera visited—as allowed by policy—people in RHDP were left in restraints during their recreation period, despite also being in a secure enclosure. The deprivation of regular social interaction and the severe restrictions on such basic activities as eating, showering, and recreating can create lasting negative impacts on incarcerated people; yet there is no evidence that this level of restrictions makes prisons and jails any safer, for those incarcerated or for the people who work in them.<sup>47</sup>

<sup>47</sup> 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

**Finding B9. Some staff responded to misbehavior through communication and counseling.** Some staff reported speaking to and counseling individuals to try to deescalate situations or resolve issues instead of always writing people up in the formal disciplinary process. Some facilities where staff received CIT and other de-escalation training reported that the new emphasis on communication has reduced the need for restrictive housing. Orange Correctional Center, for example, reported that informally counseling incarcerated people at the time of their difficult behavior, and attempting to understand the behavior’s root causes, can successfully resolve issues and restore order without escalating the matter through the formal hearing process. In addition, as an alternative to the disciplinary hearing process, Foothills Correctional Institution staff have implemented a formal process of pre-disciplinary counseling for minor infractions in the Modified Housing unit for adults; they reported that this counseling was effective at resolving minor infractions.

**Finding B10. Some correctional officers expressed a belief that the overall safety of the facility depends on using segregation as a response to any and all infractions.** By demonstrating that there was zero tolerance for any rule infraction, some DPS staff felt they were preventing more serious, violent, or disruptive infractions. Some correctional officers also felt that filling out an incident report was the only meaningful tool that they had to manage an incarcerated person’s behavior.

## **Recommendations for Reducing Use of and Changing Conditions in RHDP**

**Recommendation B1. Limit the use of RHDP as a disciplinary sanction to only the most serious infractions.** Conduct a full-scale reconsideration of which infractions should be eligible for a sanction of RHDP. DPS has begun this process by drafting a new disciplinary policy that consolidates Class C and D infractions and limits the maximum disciplinary segregation time for this class to 15 days. Additionally, incarcerated people who plead guilty to a Class C infraction would automatically receive a suspended sentence, instead of going to RHDP. This draft policy, however, does not exclude any infractions from being eligible for an RHDP sanction. DPS should consider limiting eligibility for disciplinary segregation to only infractions considered the most serious, such as taking hostages or assaulting staff with a weapon. For example, the U.S. Department of Justice has issued guiding principles that restrictive housing should be reserved for offenses “involving violence, involving escape, or posing a threat to institutional safety by encouraging others to engage in such misconduct.”<sup>48</sup> This is not to say that behavior that violates facility rules should not be addressed (see Recommendations B2, B3, B6, and B7); however, disciplinary segregation should not be a sanction for all behavior. Other

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Ryan Labrecque, “The Effect of Solitary Confinement on Institutional Misconduct: A Longitudinal Evaluation” (PhD diss., University of Cincinnati, 2015).

<sup>48</sup> U.S. Department of Justice, *Report and Recommendations Concerning the Use of Restrictive Housing: Final Report* (Washington, DC: U.S. Department of Justice, January 2016), p. 97.

jurisdictions, such as Pennsylvania and Colorado, have undertaken similar reconsiderations to reduce the drivers of disciplinary segregation. Once new sanctioning guidelines are established, DPS should review all people currently in RHDP and adjust their disciplinary sanctions to comport with the new guidelines.

**Recommendation B2. Expand available alternative sanctions to RHDP, and allow flexibility so that sanctions can be tailored to each facility.** During Vera’s site visits, staff were eager to offer their views on creative alternatives to segregation that they felt would be most meaningful to their specific populations—such as loss of commissary, extra work around the unit or yard, and in-cell restriction on the unit. Unit Managers could work with facility leadership to determine what sanctions are most appropriate for their specific populations, and to account for the specific privileges and programs that are offered at their facility (which could be limited as sanctions or offered as incentives). The facility administrator and chief disciplinary hearings officer should review sanctions for appropriateness.

**Recommendation B3. Create a graduated response matrix to provide sanctioning guidelines based on behavioral-change management, with an emphasis on alternatives to segregation.** Washington State, for example, implemented a sanctioning guideline that outlines a variety of sanction options ranging from a reprimand and warning to extra work duty hours or loss of fee-based recreation, to evening lockup/confinement to quarters, to a maximum of 30 days in segregation.<sup>49</sup> Sanctions increase in severity depending on whether an infraction is a person’s first, second, or third offense within a 12-month period. DPS should provide specific trainings to Unit Managers, Hearings Officers, and Correctional Officers on the use of a graduated response matrix and alternatives to segregation, to ensure understanding and shared expectations.

**Recommendation B4. Shorten the maximum length of time that can be spent in disciplinary segregation.** Researchers have found no evidence that longer stays in disciplinary segregation decrease infractions or violence by people upon return to regular population.<sup>50</sup> DPS’s draft disciplinary policy would reduce the maximum disciplinary segregation sanction from 60 days to 45 days. Several states have settled on a 30-day maximum sanction, including Washington State, Colorado, and New Mexico, and others are moving to cap disciplinary segregation at 15 days, including Delaware and Ohio.<sup>51</sup> Moreover, for more serious and violent infractions, a shorter disciplinary segregation time would speed an incarcerated

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<sup>49</sup> Fee-based recreation refers to the quarterly enrollment fee that individuals pay to participate in weight-lifting, music, and hobby craft programs. Pacholke and Mullins, 2016.

<sup>50</sup> Frost and Monteiro, 2016.

<sup>51</sup> 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).

person's reclassification to Control and the Rehabilitative Diversion Unit (RDU), should that be deemed necessary, where programming and behavioral interventions are available.

**Recommendation B5. Create a formalized system of time credits based on good behavior in RHDP.** Allowing incarcerated people the ability to earn time off of their sanction promotes positive behavior and ensures that an individual who is able to return to regular population safely is not unnecessarily housed in restrictive housing. In Pennsylvania, for example, staff conduct reviews of individuals in disciplinary segregation at the half-way mark of their sanction, with the goal of returning them to regular population whenever possible. When implementing a system of good-time credits, ensure there is a meaningful review of an incarcerated person's behavior at the appointed time. Communicating this system clearly to staff and individuals sent to RHDP will increase transparency, create an understanding of expectations, and set the stage for supporting positive behavioral change.

**Recommendation B6. Expand and track the practice of pre-disciplinary counseling, and encourage other informal ways to resolve minor offenses.** Consider which infractions should first be addressed through pre-disciplinary counseling in lieu of the formal disciplinary process. DPS should give more responsibility to correctional officers to informally resolve conflicts, especially for minor infractions such as disobeying an order or cursing. This might include creating a process for rewarding correctional officers for reducing their reliance on the disciplinary process while achieving concomitant reductions in violence and grievances.

**Recommendation B7. Explore informal responses on the unit for specific infractions, as an alternative to the traditional disciplinary process and RHDP.** Decades of research on human behavior indicate that an immediate response to behavior is more effective than a delayed response.<sup>52</sup> DPS could create a model that allows correctional officers and supervisors to swiftly respond to non-serious infractions through the use of fair and proportionate sanctions. Like in the formal disciplinary system, a standardized response matrix should guide these responses. (See Recommendation B3.) Types of responses, such as a reprimand and warning or loss of yard time, should be less restrictive than those given in the disciplinary process, and there must be a review system to ensure sanctions are used appropriately and consistently. For example, State Correctional Institution Somerset, an adult prison facility in Pennsylvania, piloted a program that imposes swift, certain, and fair sanctions for specified misbehaviors, with promising results after the first preliminary review—in terms of a decrease in number of assaults on the unit and greater communication between correctional

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<sup>52</sup> For example, see Valerie Wright, *Deterrence in Criminal Justice: Evaluating Certainty vs. Severity of Punishment* (Washington, DC: The Sentencing Project, November 2010); and Swift Certain & Fair, <http://swiftcertainfair.com/>. Most of this research has focused on community corrections, but its principles of behavioral modification are relevant to institutional corrections as well.

officers and incarcerated people.<sup>53</sup> Pennsylvania is expanding the program to nine additional facilities.

**Recommendation B8. Reduce the number of additional sanctions that are imposed on people who receive disciplinary segregation.** In particular, use the “loss of visits” sanction sparingly. Research demonstrates the importance of maintaining family engagement for both the incarcerated person and his or her loved ones. Family visits can lead to better outcomes, including a lower risk for recidivism, for the incarcerated person.<sup>54</sup> Former Washington Department of Corrections Secretary Bernie Warner stated that 2010 data from the department revealed that incarcerated people who visited regularly with family were six times less likely to commit another infraction while incarcerated than those who did not.<sup>55</sup> Additionally, fines should not be automatically assessed in response to a guilty finding. Charging incarcerated people \$10 per incident disproportionately impacts indigent individuals and is lacking in evidence that it leads to behavioral changes. A fine could be 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.

**Recommendation B9. Improve the conditions of confinement in RHDP.**

- a. Increase frequency and length of both indoor and outdoor recreation, and ensure that recreation is meaningful and offered to incarcerated people seven days a week.**
- b. Provide access to exercise cells in all restrictive housing units *in addition to* currently offered recreation.** DPS reports they have begun using exercise cells in some restrictive housing units. These exercise cells could include appropriate exercise equipment, such as exercise bands and balls, and instruction manuals for exercise programs. Hampden County Correctional Center, for example, has had much success using an exercise cell in their restrictive housing unit as an incentive for demonstrating positive behaviors.
- c. Ensure that incarcerated people are leaving their cells for recreation.** Provide staff training on the importance of being able to leave the cell for recreation. Examine

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<sup>53</sup> Presentation by Trevor Wingard, Superintendent, SCI-Somerset, on September 27, 2016, on file with authors.

<sup>54</sup> G. Duwe and V. Clark, “Blessed the social tie that binds: The effects of prison visitation on offender recidivism,” *Criminal Justice Policy Review* 24, no. 3 (2013): 271-79. Vera’s Family Justice Program has produced several reports that speak to the importance of maintaining family engagement for both the incarcerated person and his or her loved ones. In these reports, Vera cites research showing how family visits can lead to better outcomes, including a lower risk for recidivism, for incarcerated people. Vera Institute of Justice, *Why Ask About Family* (New York, 2011, Grant No. 2007-DD-BX-K476).

<sup>55</sup> Margaret diZerega and Jules Verdone, *Setting an Agenda for Family-Focused Justice Reform* (New York: Vera Institute of Justice, 2011).

data from electronic rounds to determine if particular units are not bringing people out of their cells for recreation as often as others. Utilize mental health staff who are making rounds to encourage reluctant men and women to leave their cells for recreation and showering.

- d. Allow incarcerated persons greater telephone privileges to speak with loved ones during their time in RHDP.** Current policy limits phone privileges for those in RHDP, except for attorney calls. As noted above, research shows the importance of communication with family in promoting positive outcomes, including reduced recidivism, for incarcerated people. DPS should allow greater access to telephone calls in RHDP unless there is an individualized determination that phone calls for an individual creates a safety risk.
- e. Restrict when restraints are imposed on a person's recreation time to instances of serious assault and ensure multiple layers of review; provide training on when these are appropriate.** Policy allows correctional staff to place “structured limits,” such as restraints, on people while they are out of their cell in a secure enclosure for their one hour of recreation. Ensure that the use of these restraints is restricted and officers are trained for the extremely limited instances they might be appropriate.
- f. Provide opportunities for congregate out-of-cell time and for productive in-cell activities.** Consider assessing adults in restrictive housing and match people for compatibility to allow for congregate out-of-cell time. Create more opportunities for productive activities in-cell; consider installing televisions or handing out tablets or MP3 players that could deliver programming to improve behavior or entertainment to prevent mental decompensation and incentivize positive behavior.
- g. Strategize ways to provide incentives for good behavior in disciplinary segregation, such as televisions in the unit, tablets, additional phone calls, or additional time in an exercise cell.** Ensure that incentives are achievable in the shortened timeframe in disciplinary segregation. In Foothills Correctional Institution, for example, Vera observed that television was being used effectively as an incentive in restrictive housing units. One wing of the restrictive housing unit had a television, which provided an incentive for youth in other restrictive housing units to behave in order to be “promoted” to the wing with the television. DPS reports that they are piloting the use of televisions in additional cell blocks. Tablets could be used to provide educational and recreational programming in-cell.

## C. Restrictive Housing for Administrative Purposes

The following section will address DPS’s use of Restrictive Housing for Administrative Purposes (RHAP) and provide recommendations on how to reduce that use.

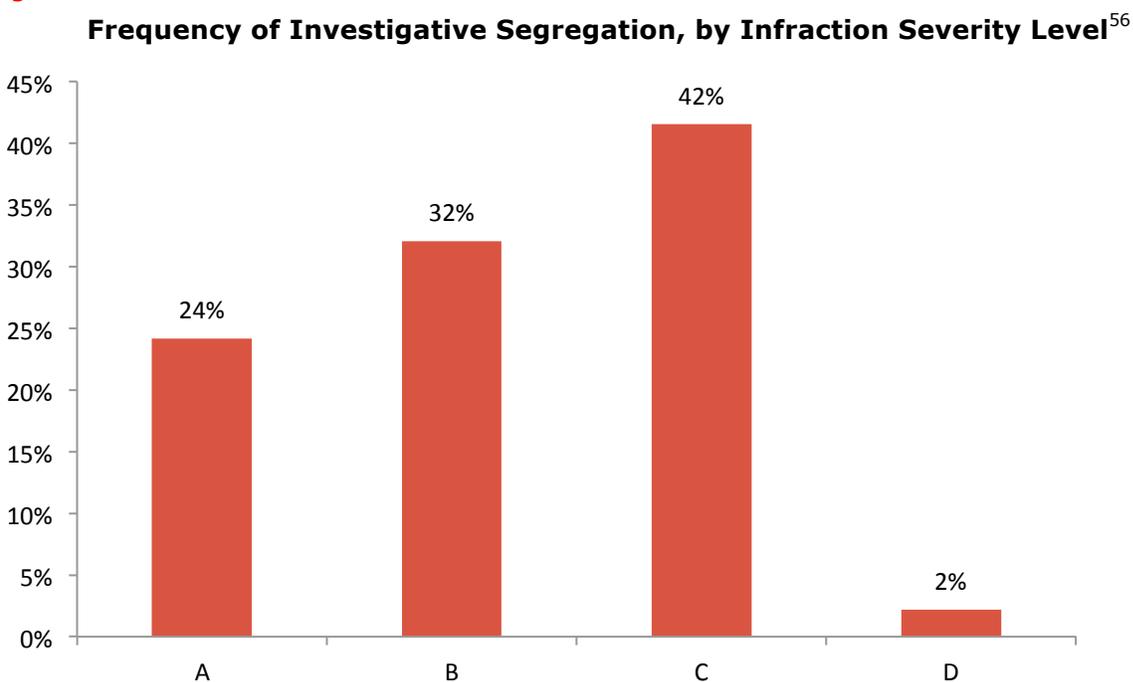
### Findings

**Finding C1. Twenty percent of the population in restrictive housing on the snapshot date (June 30, 2015) was in RHAP (684 people).**

**Finding C2. Nearly 80 percent of incarcerated people in RHAP were there for investigation (546 people).** Generally, these are investigations of alleged misconduct as part of the disciplinary process. Eleven percent of people in RHAP (77 people) were there to “provide necessary security,” nine percent (58 people) were there to “preserve order,” and three people were there to “protect staff and other inmates.”

**Finding C3. Over 40 percent of the time that DPS placed an incarcerated person in RHAP for investigation, it was to investigate Class C infractions.** (See Figure 6.)

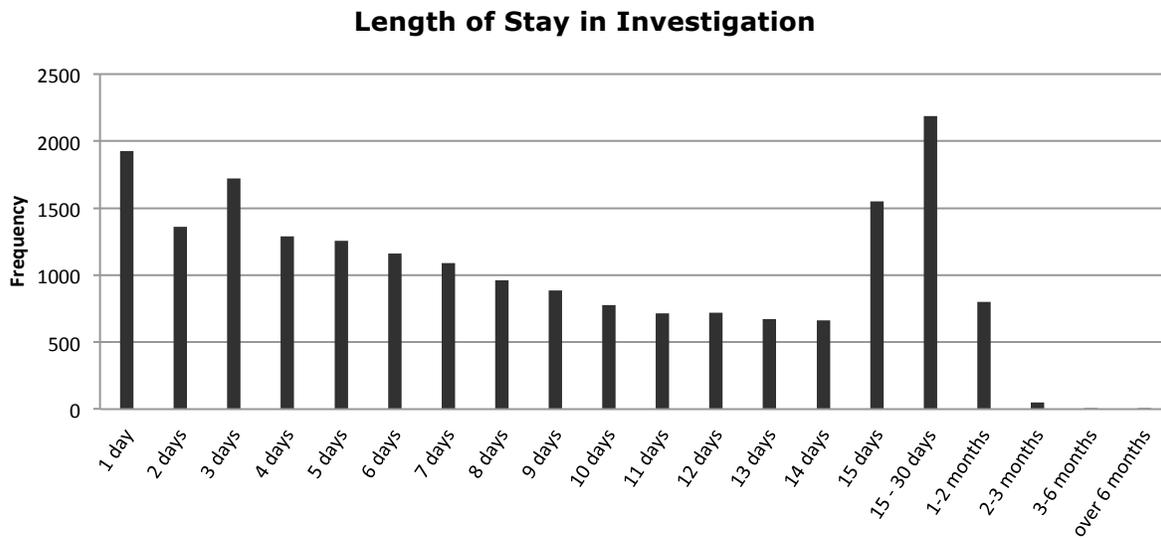
Figure 6



<sup>56</sup> These numbers refer to placements into RHAP for investigation during the year ending June 30, 2015. Vera identified the most serious offense a person was charged with on the day in which they entered investigative status.

**Finding C4. The average length of stay in RHAP for investigation was 10 days.** During the year prior to the snapshot date (June 30, 2015), over a quarter of people held in RHAP for investigation had stays of two weeks or longer. (See Figure 7.) Per policy, individuals can be held in RHAP for investigatory purposes for 15 days, with possible extensions granted up to 60 days, before going before a Disciplinary Hearing Officer. Extensions are granted in 30-day increments.

Figure 7



**Finding C5. Conditions in RHAP are identical to conditions in RHDP in terms of the limited amount of recreation time, use of restraints, and lack of congregate activity.** For example, recreation time is limited to one hour a day, five days a week, and there is no congregate activity. The few differences between RHAP and RHDP relate to the allowed amount of trust-fund withdrawals, canteen expenditures, and visits.

### Recommendations to Reduce Use of and Shorten Length of Stay in RHAP

**Recommendation C1. Amend the policy authorizing RHAP for “necessary control when completing an investigation” to one that allows RHAP for investigation of a disciplinary infraction *only* if the incarcerated person’s presence in regular population during the investigation would pose a danger to themselves, staff, or other incarcerated people.** Policy and training should be crafted carefully to ensure that this is not interpreted overly broadly to permit the imposition of restrictive housing for lower-level misconduct.<sup>57</sup>

<sup>57</sup> See U.S. Department of Justice, *Report and Recommendations Concerning the Use of Restrictive Housing*, p. 99.

**Recommendation C2. Require the review of an incarcerated person’s placement in RHAP within 24 hours by an appropriate, high-level authority who was not involved in the initial placement decision.** This will facilitate an independent determination of whether the individual’s presence in regular population would still pose a danger to staff or others.

**Recommendation C3. Create procedures so correctional staff can complete disciplinary investigations as expeditiously as possible and so RHAP is only used for the shortest amount of time necessary.** For example, one step could be to shorten the head of the facility’s time to determine if a formal action is required, from 72 hours to 24 or 48 hours. Additionally, under current policy, extensions for investigations can be granted in increments of 30 days; consider permitting extensions in much shorter increments, such as 48 hours.

**Recommendation C4. Shorten the maximum length of RHAP for all purposes.** DPS should be able to conduct an investigation or determine an appropriate housing placement in less than 60 days.

**Recommendation C5. Ensure that any changes to the use of restrictive housing as a disciplinary sanction are also reflected in changes to RHAP.** For example:

- a. Enact a policy prohibiting the use of RHAP for investigation of infractions that are not eligible for a disciplinary segregation sanction.** Once DPS has established which infractions are not serious enough to merit RHDP, enact a policy that likewise excludes RHAP for investigation of those infractions.
- b. As DPS caps the length of stay in RHDP, enact policies that prohibit an incarcerated person from being held in RHAP for investigation for longer than the maximum RHDP sanction he or she is facing.**

## D. Control Housing<sup>58</sup>

During Vera’s assessment period, North Carolina Department of Public Safety had three different classifications for housing an incarcerated person in non-punitive restrictive housing with an indeterminate length of stay: Intensive Control (ICON), Maximum Control (MCON), and High Security Maximum Control (HCON). DPS is in the process of overhauling these units with the goal of successfully returning incarcerated people to regular population. As a start, DPS recently consolidated ICON and MCON into one classification, “Restrictive Housing for Control Purposes” (RHCP). The long-term goal is to consolidate all people in Control into two step-down facilities that offer intensive programming and increased congregative activity. In March 2016, DPS opened the first step-down unit, the Rehabilitative Diversion Unit (RDU) at Marion Correctional Institution.

Below, we 1) detail our findings on how DPS used Control housing during the assessment period, 2) provide a brief overview of DPS’s reforms in this area, and 3) present recommendations regarding DPS’s current use of Control housing as well as guidance on recent and proposed reforms. Findings from our assessment period should be a useful baseline for DPS to measure their reforms.

### Findings

**Finding D1. On the data snapshot date (June 30, 2015), 1,261 people were held in some form of Control housing (ICON, MCON, or HCON).** This represented 37 percent of all people held in restrictive housing on that date. The majority of these (930 people, 74 percent of those in Control housing) were in ICON; twenty-one percent (261 people) were in MCON, and the remaining six percent (70 people) were in HCON.

**Finding D2. Policy allowed incarcerated people to be classified to Control without having committed a serious or violent infraction.** Twenty percent of incarcerated people in ICON had no history of violent infractions.<sup>59</sup> (See Table 4.) According to 2015 policy, ICON was intended to control individuals “whose behavior has proven to be repeatedly disruptive to the operations of the facility, non-compliant with instructions and orders, or as a transition following assignment to MCON status.” Thus individuals placed on ICON may have been

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<sup>58</sup> This section addresses findings and recommendations for long-term restrictive housing for incarcerated men who have mental health codes M1 or M2; i.e., men who have no or few identified mental health needs. Please see sections IV.G and IV.J for additional recommendations specific to incarcerated people with mental health needs and to women.

<sup>59</sup> DPS determined that the following infractions make someone eligible for the RDU: Infractions A1-A5, A7-A11, A17, A18, B7, B13, B18, and B20-21 (i.e., taking hostages, active rioter, assaulting staff/person with a weapon, assaulting an inmate/staff/other person with sexual intent, detonating explosives, setting a fire, assaulting staff/throwing liquids, fighting with a weapon, false allegations on staff, provoking assault on staff/other person, threatening to harm/injure staff, assaulting staff/other person with unlikely injury). Therefore, Vera defined violent infraction to include these infractions. Figures refer to people held in control housing on the snapshot date.

disruptive or a nuisance, but they had not necessarily committed serious, violent infractions that posed a threat to the safety of staff and incarcerated people.

Table 4

**Violent Infraction Histories, by Control Level**

Control Level	No Violent History	Violent History	Total
HCON	1	69	70
	1.4%	98.6%	100%
MCON	8	247	255
	3.1%	96.9%	100%
ICON	181	711	892
	20.3%	79.7%	100%
<i>Total</i>	<i>190</i>	<i>1,027</i>	<i>1,217</i>
	<i>15.6%</i>	<i>84.4%</i>	<i>100%</i>

**Finding D3. The first review of an incarcerated person’s classification in ICON, MCON, or HCON came 180 days after placement.** Per policy, this review had to take place within at least 180 days, but discussions with facility staff suggest that this review rarely, if ever, happened more frequently than 180 days. After the initial review, a person’s placement in Control would continue to be reviewed every 180 days.

**Finding D4. People in ICON and MCON experienced long lengths of stay: The average length of stay in ICON was 267 days (approximately 9 months); it was 628 days in MCON (21 months).** (See Table 5, below.) On average, individuals who entered MCON spent 362 *more* days in restrictive housing than those whose highest control status was ICON. Part of this extended stay most likely resulted from the policy requirement that people removed from MCON status then be assigned to ICON, as a kind of step down to a less restrictive setting. Since the first review of ICON classification typically came at 180 days, housing someone in ICON after MCON added at least an additional six months to a restrictive housing stay.

Table 5

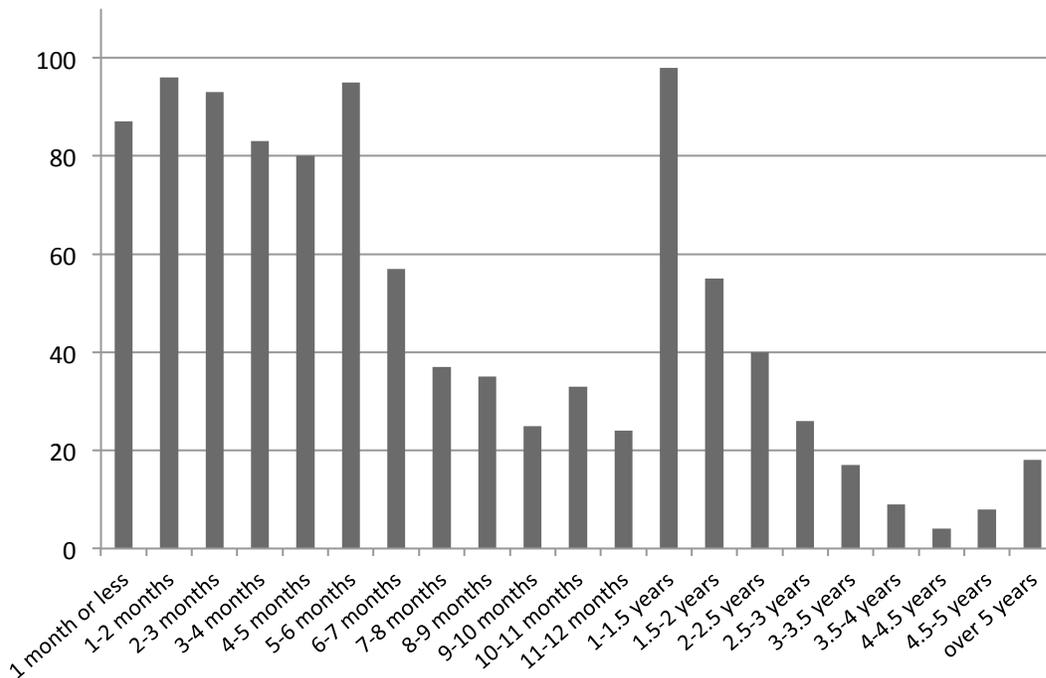
**Length of Stay in Control**

Control Unit	N	Mean (days) <sup>60</sup>	Median (days)	Standard Deviation
ICON	1,532	267.11	217	238
MCON	318	628.7	496	531.4

**Finding D5. Some people in Control had not committed a violent infraction for a considerable period of time.** For 23 percent of people in ICON, MCON, or HCON on the snapshot date, their most recent violent infraction was over 1 year prior. (See Figure 8.)

Figure 8

**Time Since Most Recent Violent Offense (All Control)**



**Finding D6. According to the June 30, 2015 snapshot data, 52.7 percent of individuals in any Control unit were validated security risk group (SRG) members.** Staff from every facility Vera visited reported an increase in SRG membership and violence within their facilities.

<sup>60</sup> Vera counted the total number of continuous days spent in *any* form of restrictive housing for those whose highest level of placement was ICON, MCON, or HCON. These figures refer to people who were released from restrictive housing (to regular population or the community) during the year prior to the snapshot date.

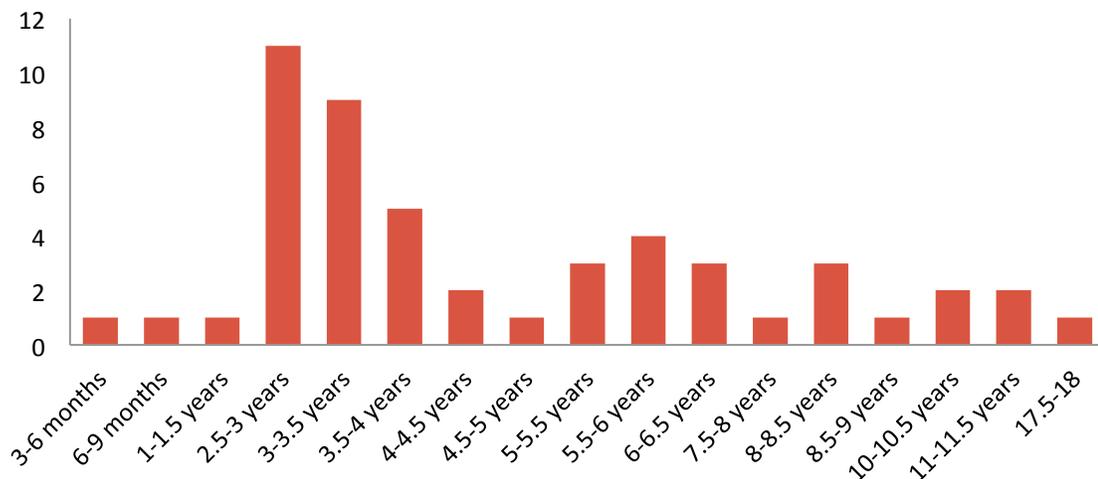
**Finding D7. Conditions in ICON and MCON housing were similar to those in RHAP and RHDP, in terms of extremely limited out-of-cell time and lack of programming and congregate activity, and in practice there was no difference in housing conditions between MCON and ICON.** Indoor or outdoor recreation was provided, at most, one hour a day, five days a week (although Vera heard from staff that incarcerated people could be denied exercise because of insufficient staffing or, per policy, for refusing to comply with control procedures); there was no programming—and therefore no opportunities to engage incarcerated people in behavioral interventions that might mitigate dangerous behaviors and enhance their ability to be safely released from Control—and no congregate activity. Differences in conditions between RHAP, RHDP, and ICON and MCON were primarily found in regards to the amount of canteen and trust fund withdrawals allowed.

**Finding D8. The Director’s Classification Authority (DCA) could place individuals in ICON or MCON without receiving guidance by officials with medical, mental health, behavioral health, programmatic, or other expertise.** The DCA comprised classification coordinators from the Classification Services Section, but did not include qualified mental health professionals or other people with relevant expertise. As shown in Findings G5-G6, incarcerated people with mental health needs were overrepresented in ICON and MCON, although their classification there was not determined by anyone with mental health expertise.

**Finding D9. The mean length of stay in restrictive housing for someone in HCON was almost five years (1,187 days); some people had been there for over a decade.<sup>61</sup>**

Figure 9

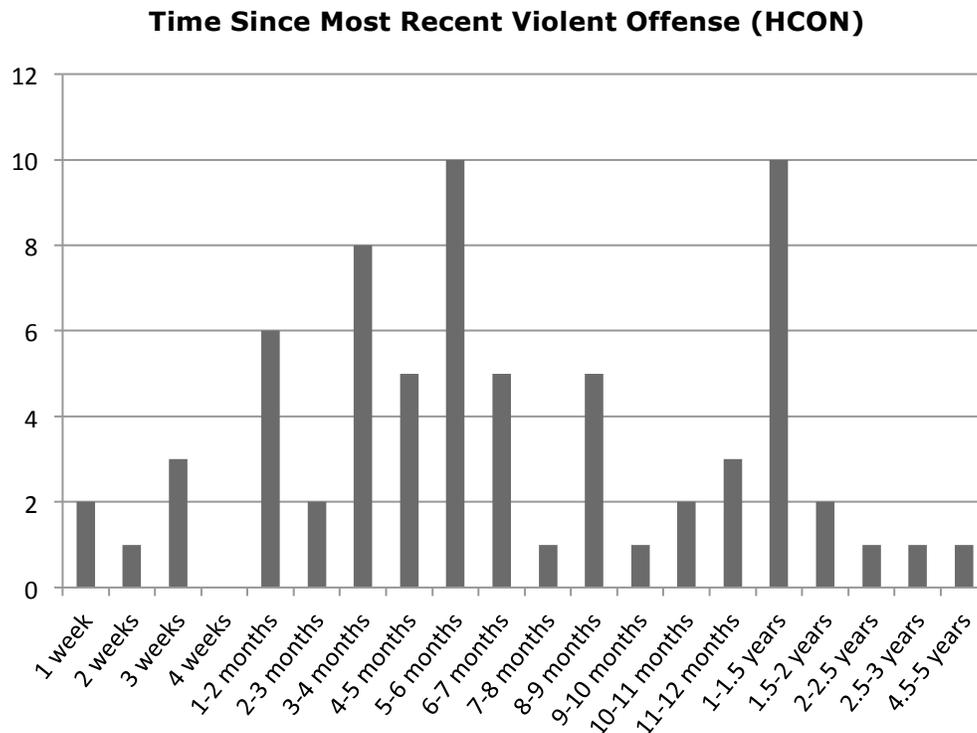
**Length of Stay in Segregation, for Those Who Spent Time in HCON**



<sup>61</sup> Vera counted the total number of continuous days spent in *any* form of restrictive housing for those whose highest level of placement was HCON. These figures refer to people who were released from restrictive housing (to regular population or the community) during the year prior to the snapshot date.

**Finding D10. Twenty-two percent of incarcerated people in HCON on the snapshot date had not committed a violent infraction within the past 12 months.** (See Figure 10.) HCON is used to house people who “pose an imminent threat to the life or health of other inmates or staff or that otherwise pose a most serious threat to the security and integrity of a prison facility.”<sup>62</sup> Yet even in this unit, almost a quarter of the people had not committed a violent infraction within the past year.

Figure 10



**Finding D11. Of the 54 people in HCON on the snapshot date (June 30, 2015) who had committed a violent infraction in the past year, 57 percent committed their most recent violent infraction within a regular population housing unit.** This indicates that they were classified to the most restrictive control unit—HCON—directly from regular population, without any intermediate placement in ICON or MCON.

**Finding D12. Incarcerated people in HCON spend 24 hours a day in their cell and adjoining (indoor) recreation area.** The adjoining recreation area is approximately 10 by 12 feet, with 8 small horizontal slit windows covered with “mesh” that allow in a little air; people are allowed to recreate here one hour a day, five days a week. Individuals in HCON shower in their cell. There is no meaningful programming offered in HCON. Staff told us that they are

<sup>62</sup> Policy and Procedure Manual, Chapter C, Section .1700, “High Security Maximum Control” (Issue Date: 03/02/15), p. 1.

making use of an “atrium” space in the HCON unit to provide occasional additional out-of-cell recreation. However, to qualify for this recreation—offered once every other week—an incarcerated person must remain infraction-free for six months.

## **Reforms to Control Housing**

Since joining the SAS Initiative, DPS has enacted major changes to its approach to Control housing. As a first step, DPS consolidated ICON and MCON into Restrictive Housing for Control Purposes (RHCP). This consolidation will hopefully result in a decrease in the length of stay in RHCP, since a person will no longer have to spend six months in MCON prior to spending six months in similar conditions in ICON, before returning to regular population.

Under the updated policy, people can still be placed into control housing (RHCP) for “behavior deemed to be repeatedly disruptive to the orderly operations of the facility.”<sup>63</sup> However, participation in an SRG, alone, will no longer be sufficient justification to place someone into RHCP.<sup>64</sup>

DPS also increased the frequency with which a Qualified Mental Health Professional (QMHP) assesses people in RHCP. Per policy in 2015, a QMHP would conduct an initial mental health assessment for all people who had been in segregation for 30 days, with subsequent assessments every 90 days thereafter. As of September 1, 2016, a QMHP will conduct a mental health assessment of people in RHCP every 30 days.

The most significant change in Control housing is the creation and implementation of the Rehabilitative Diversion Unit (RDU).<sup>65</sup> This new unit is designed to house people who are already in RHCP or HCON or who are about to be placed into one of those classifications. In contrast to the restrictive conditions of RHCP, with extremely limited out-of-cell time and no programming, the RDU is a step-down unit with targeted behavioral programming, expanded privileges, congregate activity, and increasing out-of-cell time.

RDU is planned as an 18-month program. During the first 12 months, incarcerated people are given programming and gain gradually increasing privileges and out-of-cell time, and in the final six months they have similar privileges and out-of-cell time to regular population. During the first 90 days, incarcerated people will be held in conditions that resemble traditional Control housing in regards to amount of out-of-cell time, lack of congregate activity, and lack of incentives and privileges. They will, however, participate in in-cell journaling. Out-of-cell time

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<sup>63</sup> Policy and Procedure Manual, Chapter C, Section .1300, “Restrictive Housing for Control Purposes” (Issue Date: 05/10/16), p. 1.

<sup>64</sup> The policy in place in 2015 allowed for an incarcerated person to be placed in MCON even if they had not committed a major disciplinary infraction, if they were “[p]articipating in, either directly or indirectly, the activities of a validated security group...under certain circumstances.” Policy and Procedure Manual, Chapter C, Section .0400, “Maximum Control” (Issue Date: 03/02/15). The updated policy no longer includes participation in a validated security risk group as a basis for classification to RHCP.

<sup>65</sup> Information presented here on the RDU comes from program and policy documents provided by DPS and conversations with staff instrumental in creating the program.

planned for the first six months of the program includes one-hour-a-day of outdoor recreation, weekly group programming after the first 90 days, and three-times-a-week opportunities to exercise in an exercise cell.

The RDU has its own specific disciplinary matrix tailored to the needs of this population; it emphasizes that “there will be times the participant will self-sabotage, as ‘doing well’ may be something new they are unsure of how to experience. These consequences should be addressed in a manner of maintaining safety and security of self and others, while addressing the participant in a way as instructed in Motivational Interviewing and Crisis Intervention Training.”<sup>66</sup> If people in Phases I or II of the program are subject to a disciplinary segregation sanction of less than 30 days, they may return to where they were in the program upon completion of the sentence.

Incarcerated people in Phase III will be classified as regular population, with corresponding privileges, out-of-cell time, and programming, but will still be part of the RDU. After finishing Phase III, incarcerated people will be able to return to regular population in another facility.

## **Recommendations to Reduce the Use of and Change Conditions in RHCP**

**Recommendation D1. Enact policies that limit Control classification to people who have (1) committed a major disciplinary infraction(s) and (2) pose an imminent risk to the life or safety of other incarcerated people and staff.** Incarcerated people who have not committed a major disciplinary infraction and do not pose an imminent threat to the life or health of other incarcerated people or staff should instead be diverted to a less restrictive housing unit, such as Modified Housing, where closer supervision and targeted programming can be provided. In no case should Control housing be used as a response to lower-level, nuisance misbehavior.

**Recommendation D2. As soon as possible, all RHCP housing should be re-configured into RDU step-down units, with increasing out-of-cell time, programming and other cognitive behavioral interventions, and increasing privileges, to prepare people to return successfully to regular population.** DPS is moving toward this goal with the creation of one RDU and plans to open a second RDU in another facility. However, since it will take some time to open up a second RDU, the following recommendations are targeted towards RHCP and HCON, in addition to the RDU.

**Recommendation D3. Immediately conduct a system-wide review of individuals who are currently in RHCP or HCON, to identify those who either no longer meet the above recommended criteria for RHCP or who have been free of serious infractions for a significant period of time and can be safely housed in less-**

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<sup>66</sup> Rehabilitative Diversion Unit Program Manual, 2016, on file with authors.

**restrictive environments.** Immediate efforts should be made to move incarcerated people who have never committed a violent infraction—or who, depending on the severity of the initial infraction, have been violent infraction-free for a period of time—to either regular population or Modified Housing. DPS could prioritize transferring those people who have not committed a violent infraction in the past 12 months, then review those who have not committed a violent infraction within the last 180 days. Also examine other indicators of progress or positive behavioral change, such as cooperation with staff, good behavior while out-of-cell, and engagement in available services. DPS has already begun this process, by reviewing and then transferring two individuals from HCON into the RDU step-down program.

**Recommendation D4. Clarify the description of the Director’s Classification Authority to specify that it should be a multidisciplinary committee, including representatives from mental health and program staff, to provide the most meaningful and thorough review for placement on RHCP.** This committee should carefully consider if a less-restrictive housing placement is appropriate, such as Modified Housing. If a less-restrictive setting is not possible, the committee should document the reason.

**Recommendation D5. As soon as an incarcerated person is placed in RHCP or HCON, correctional staff should develop, in consultation with the affected person, a clear behavioral plan with the aim of returning the individual to less-restrictive housing as promptly as possible.** By following the behavioral plan, the incarcerated person should be able to demonstrate that they can be safely housed in a less-restrictive environment.

**Recommendation D6. Establish policies that cap the length of time an incarcerated person can stay on RHCP before being reclassified into the RDU.** For example, Colorado currently has a 12-month limit on their long-term restrictive housing unit (which allows incarcerated people out of their cells for one hour per day), and they are considering lowering it. This limited period of time can be used to plan for what supports might be needed to ensure a successful transition to a less restrictive environment.

**Recommendation D7. Implement strategies for reducing idleness, sensory deprivation, and isolation for people who are in RHCP (but not yet in the RDU) and in HCON.** Use some of the in-cell programming being offered through the RDU and consider offering additional activities and programming using television or tablets. Maximize out-of-cell time to the extent possible with current staffing, and strive to increase this time in the future. Security restraint chairs and “spider tables” can be used as a start, to allow incarcerated people to safely congregate outside of their cells and take classes, participate in group treatment, play cards, or even hold a job. For example, the Red Onion Supermax Correctional Facility (Red Onion) in Virginia uses restraint chairs to allow incarcerated people to participate in out-of-cell employment and programming opportunities. Moreover, DPS should allow for recreation in

pairs or small groups whenever possible. As DPS's overall use of restrictive housing decreases, additional resources should be reallocated to the remaining restrictive housing units to enable additional out of cell time. Some DPS facilities have positive relationships with faith-based and community volunteer organizations. DPS could conduct outreach to these organizations to see who might be willing to work specifically with people who require longer-term separation from others; this could include gang renouncement programs, trauma informed counseling, mentoring, and other pro-social activities.

**Recommendation D8. Provide trainings around the policy on what are appropriate, limited exceptions to the requirement of providing out-of-cell recreation.** As described in Finding D7, Vera heard disparate reasons from staff on acceptable justifications for not providing recreation. Exceptions to out-of-cell recreation, per policy, include things such as “facility emergencies, natural disasters, or loss or curtailment of physical plant operations as the result of construction or renovation projects.” These should be the only exceptions to out-of-cell recreation, and DPS should ensure that all staff understand and comply with this policy.

**Recommendation D9. Provide incentives for positive behavior in RHCP.** Incentives such as extra commissary and use of radios or televisions can promote positive behavior and help prevent mental decompensation, as well as prepare people for stepping down to regular population through the RDU.

**Recommendation D10. DPS should no longer house people in the current HCON conditions of 24 hours in-cell per day.**

- a. **Create the opportunity for outdoor recreation in HCON.** Create opportunities for people in HCON to be able to recreate outdoors, unless there has been an individualized determination based on evidence that security would be jeopardized if a particular individual recreated outdoors. Policy on limiting outdoor recreation could mirror the current policy on restrictions around recreation, with a three working day limit and imposition by the facility head or designee. Other jurisdictions are moving towards ensuring that every incarcerated person has the opportunity to recreate outside. For example, Colorado recently settled a class action lawsuit around the provision of outdoor recreation; now even the highest security prisoners will have access to outdoor recreation.<sup>67</sup>
- b. **In HCON, at-the-cell-door communication and counseling should start immediately, and DPS should prioritize moving restraint chairs to this unit**

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<sup>67</sup> Susan Green, “Legal settlement ends Colorado’s practice of denying inmates fresh air,” *Colorado Independent*, July 5, 2015.

**to provide out-of-cell programming.** Providing more resources to HCON will guard against mental decomposition and support behavioral change.

- c. Consider the provision of televisions or tablets.** HCON classification is not technically a disciplinary sanction, but it is incredibly restrictive. The provision of televisions (as done at Red Onion), tablets, MP3 players, or similar technologies can be useful in preventing mental decompensation and providing behavioral and educational programming.

**Recommendation D11. Even with the above recommendations, incarcerated people should only be housed in HCON for the absolute minimum amount of time necessary, and the goal should be to step them down to the RDU as soon as possible.** DPS should do everything possible to eliminate the use of HCON. Because of its highly restrictive conditions, HCON housing should be the absolute last resort classification, used only for incarcerated people who have committed major violent infractions while in RHCP or the RDU and who cannot be safely managed in any other setting. Placement of incarcerated people on HCON should be reviewed every 30 days, with the expressed goal of stepping them down to the RDU as soon as possible.

**Recommendation D12. Increase the level of scrutiny and review given to incarcerated people being placed on HCON.** Consider requiring the Director of Prisons to personally approve HCON classifications *and* have a high-level multidisciplinary committee review new placements to, or those being continued on, HCON. Include high-level officials with medical, mental health, behavioral health, programmatic, and other expertise.

**Recommendation D13. Enact policies to shorten the length of time between reviews of individuals in RHCP, with a goal of returning incarcerated people to either regular population or Modified Housing as soon as this can be done safely.**

## **Recommendations for the RDU**

**Recommendation D14. Shorten the length of the RDU.** DPS should modify the program so that incarcerated people are generally not spending longer in restrictive housing conditions in the RDU than they used to spend in Control housing. The average length of stay for a person in ICON was 267 days (see Finding D4), significantly less than the 12 months of the RDU's more restrictive phases. And on the snapshot date, 74 percent of incarcerated people in Control housing were in ICON. Therefore, placement in the RDU could result in an *increase* in the average length of stay for individuals in Control housing, since many in the program might otherwise have left ICON after a shorter stay.

One way to achieve this would be to shorten Phases I and II of the RDU. Another way would be to create a process to allow some incarcerated people to move faster through the phases if their behavior and needs warrant it. Another option would be to modify the program so that some incarcerated people are able to start at Phase II, depending on their risks and needs. Starting at Phase II would provide the added behavioral management benefit that these people would have privileges (allowed in Phase II but not Phase I) which could be temporarily limited or taken away as a disciplinary sanction.

**Recommendation D15. After a brief orientation, incarcerated people should be engaged in out-of-cell time from the beginning of the RDU.** Many jurisdictions that use step down programs, such as Virginia, Washington, Michigan, Maine, and New Mexico, begin out-of-cell time and congregate programming from the very beginning of their programs. Moreover, incarcerated people who enter RDU from RHCP or HCON will have already spent a considerable amount of time in traditional restrictive housing, and there seems little benefit from an additional three months without out-of-cell programming or congregate activity.

**Recommendation D16. Consider starting incarcerated people with more privileges, so they have something to lose, as a way to manage behavior without using segregation.** For example, Michigan’s “Incentives in Segregation” program uses this behavioral management model with reported success.<sup>68</sup>

**Recommendation D17. Develop strategies to engage prisoners who refuse to eat, shower, or participate in programming. Do not punish incarcerated people who are reluctant to leave their cells.** Create procedures to successfully help incarcerated people leave their cells (without conducting a cell extraction). Examine strategies used in other jurisdictions for those individuals who are reluctant to leave their cells. For example, Colorado uses a progressive series of three “interventions” by various staff, and both Colorado and Pennsylvania coax people out of their cells by bringing dogs from their dog programs onto the units and offering individuals the opportunity to interact with them outside of their cells.<sup>69</sup>

**Recommendation D18. Structure the RDU to allow incarcerated people who successfully complete the program to lower their SRG validation level.** Many aspects of the RDU program are similar to that of the Security Threat Group Management Unit (STGMU), which allows individuals to lower their SRG level upon successful completion. It would be an overuse of restrictive housing to make an incarcerated person complete both the RDU and STGMU programs in order to lower their SRG level. Finding ways to incorporate STGMU programming in RDU, and lowering the SRG level of successful participants, would act

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<sup>68</sup> Michigan Department of Corrections, “Incentives in Segregation Pilot Project,” February 3, 2012, on file with the authors.

<sup>69</sup> See, for example, Raemisch and Wasco, 2015.

as an added incentive for incarcerated people to successfully complete the program and may address some of the underlying reasons the individual ended up in RDU.

**Recommendation D19. For incarcerated people nearing the end of their sentence, ensure that robust reentry services and planning are provided to them during Phase III, including as much interaction with the surrounding community as possible.** As part of the overall re-missioning process, as DPS creates reentry-focused facilities, consider transferring individuals who are nearing release out of Phase III early, so they can be housed in regular population at one of these reentry facilities, nearer their home community.

**Recommendation D20. Provide support to incarcerated people upon transition to regular population in other facilities.** Ensure there is a process for returning to regular population that considers history, safety, and any stigma attached from completing the program. For example, upon completion of Washington State’s Intensive Transition Program, individuals are placed into one of two lower-custody institutions that have been deemed “safe harbors.”<sup>70</sup>

- a. Provide custody and program staff at the receiving facilities with additional training and support on the specific needs of this population.**
- b. Establish a peer support program.** Incarcerated people who have successfully completed the program could provide peer support to those who are reentering regular population in other facilities. (Similarly, peer support could also be provided by Phase III individuals to those in Phase I or II).

**Recommendation D21. Establish and monitor performance measures for the step-down program.** These can include program-level performance measures such as aggregate numbers and types of infractions while in the program, completion rates, rates of infractions upon completing the program, and monitoring how long it takes people to move through the program phases. Use this information to refine and improve the RDU.

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<sup>70</sup> For more on “safe harbors,” see Pacholke and Mullins, 2016.

## E. Modified Housing

### Findings

**Finding E1. Fourteen percent of the restrictive housing population on the snapshot date (480 people) was in Modified Housing.**

**Finding E2. Modified housing units differed between facilities in regards to their purpose, conditions of confinement, and programming.**

- a. Vera observed Modified Housing in different facilities being used for various purposes.** Some facilities used it as a step down for incarcerated people coming from Control housing, while others used it for people who had completed a disciplinary sanction, but whom staff felt were neither ready for regular population nor appropriate for Control classification. Vera also observed other variations in the use of Modified Housing between facilities, including length of stay.
- b. Conditions and programming in Modified Housing also varied by facility.** Touring various Modified Housing units, Vera observed and was told about widely disparate conditions: in some units people received two hours of out-of-cell time per day, in others staff reported that as individuals behaved they were given increased out-of-cell time and other privileges.<sup>71</sup> Moreover, programming offered in Modified Housing varied dramatically between units. Policy states that programs may be delivered to incarcerated people, in manageable numbers, in the Modified Housing dayroom, and that facilities should provide some type of cognitive behavioral intervention (CBI) programming when and where possible. Some Modified Housing units Vera toured provided no programming, while others provided CBI, though programs ranged from two or three days in some facilities to eleven weeks in others.

### Reforms to Modified Housing

In May 2016, DPS instituted a new policy to bring some uniformity to Modified Housing. Participation in one or more group activities will now be mandatory, and everyone in Modified Housing will receive more than three hours per day of dayroom/indoor recreation privileges and programmatic activities. Additionally, outdoor recreation yard will be offered, at a minimum, three times per week.<sup>72</sup>

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<sup>71</sup> Policy at the time stated that because Modified Housing was a regular population classification, incarcerated people should receive the same privileges as those in regular population, but some of those privileges could be limited for security reasons. Policy and Procedure Manual, Chapter C, Section .2300, "Close Observation Housing for Regular Population" (Issue Date: 01/06/09).

<sup>72</sup> Policy and Procedure Manual, Chapter C, Section .2300, "Modified Housing for Regular Population" (Issue Date: 05/12/16).

## Recommendations for Modified Housing

Some of the new DPS reforms, as well as some recommendations in this report, rely on the use of Modified Housing as an alternative to more restrictive housing. For this reason, it is imperative that Modified Housing units are as similar to regular population as possible, are not over-used, and are program-rich, to ensure they do not simply become a replacement for disciplinary segregation or RHCP. Consistent with these principles, Vera offers the following recommendations.

**Recommendation E1. Make Modified Housing as similar to regular population conditions as possible with regards to out-of-cell time, congregate activity, and privileges.** In particular, the minimum daily out-of-cell time and outdoor recreation should increase, and be as close to regular population as possible. Additionally, conditions should be consistent among Modified Housing units across the state.

- a. Increase access to the telephone and allow contact visits, in order to encourage the pro-social relationships and community ties of those in Modified Housing.** Visits should only be restricted if an individualized determination has been made that security concerns dictate a need for non-contact visits.

**Recommendation E2. Place a greater emphasis on providing evidence-based programming geared toward behavioral change to decrease future disciplinary infractions.** Providing intensive programming within Modified Housing units can be an effective way to achieve lasting behavioral change. Targeted programming may vary somewhat by Modified Housing unit; for example, substance abuse treatment could be offered in some, but not all, Modified Housing units. Additionally, Modified Housing should, as much as possible, provide education and other programming that is provided in regular population.

- a. Create a system to ensure that every Modified Housing unit is following policies and programs with fidelity, to ensure consistency.** Appoint a member of the central office to oversee all Modified Housing units across the system, to ensure that they are operated in line with policy or that variations or innovations are justified.

**Recommendation E3. Modified Housing should not be used for people stepping down from the RDU, as that program contains its own step-down process.** However, until all incarcerated people who are classified into Control are in the RDU step-down program, Modified Housing could still be useful as a transition from Control to regular population.

## F. Protective Control

### Findings

**Finding F1. DPS is able to safely house individuals in Protective Control (commonly known as protective custody) without imposing the restrictive environment of traditional segregated housing.** Despite policy that allows for more restrictive conditions, DPS operates their Protective Control (PCON) units to mirror regular population as much as possible in terms of out-of-cell time and privileges. For example, at Warren Correctional Institution, cells in the Protective Control unit are kept open all day, the unit has an outdoor recreation yard, and the dayroom has a television, library, and games.

**Finding F2. Staff reported that there are many more requests for Protective Control than there are PCON beds.** There are a total of only 34 PCON beds, while DPS's total population is over 37,000 people.

### Recommendations for Protective Control

**Recommendation F1. Amend policies governing Protective Control status to reflect the current practice of PCON mirroring regular population in terms of out-of-cell time and privileges.**

**Recommendation F2. Increase the availability and variety of housing units for people who do not feel safe in regular population.** See Recommendation A3.

## G. Mental Health Needs and Restrictive Housing

Vera's findings come from a period prior to DPS's recent reforms in the treatment of incarcerated people with mental health needs, so they are a baseline with which DPS can measure the impact of their reforms. Vera's recommendations are strategies to build upon the promising steps DPS has already taken.

### Findings

**Finding G1. DPS assessed that 12 percent of the population required any form of mental health treatment on the snapshot date of June 30, 2015.**<sup>73</sup> This is significantly lower than in other correctional systems. In comparison, the Bureau of Justice Statistics (BJS) has reported that close to 45 percent of people incarcerated in federal prisons and greater than half of all people in jails and state prisons nationwide suffer from mental health problems, as measured by diagnosis and treatment of symptoms.<sup>74</sup> Nationally recognized mental health expert Dr. Jeffrey Metzner, in his October 17, 2014 letter to DPS, also found that only 12 percent of people incarcerated in DPS facilities had been identified as requiring mental health treatment, and he concluded this to be concerning because it could signal that not everyone who needs mental health treatment is being identified.

**Finding G2. DPS has made strides in hiring and retaining healthcare and mental health professionals, but vacancies remain high.** For example, DPS has filled many nursing positions, but in the Mountain Region (western North Carolina), nursing vacancies are still at 29 percent.

**Finding G3. A higher proportion of people with M3 or M5 mental health treatment needs were in restrictive housing, compared to people with no mental health treatment needs.**<sup>75</sup> Nearly 20 percent of individuals with mental health score M3, and 41 percent of individuals with mental health score M5, were in some form of segregation on the snapshot date, while just 8 percent of those with mental health score M1 were in segregation. (See Figure 11.)

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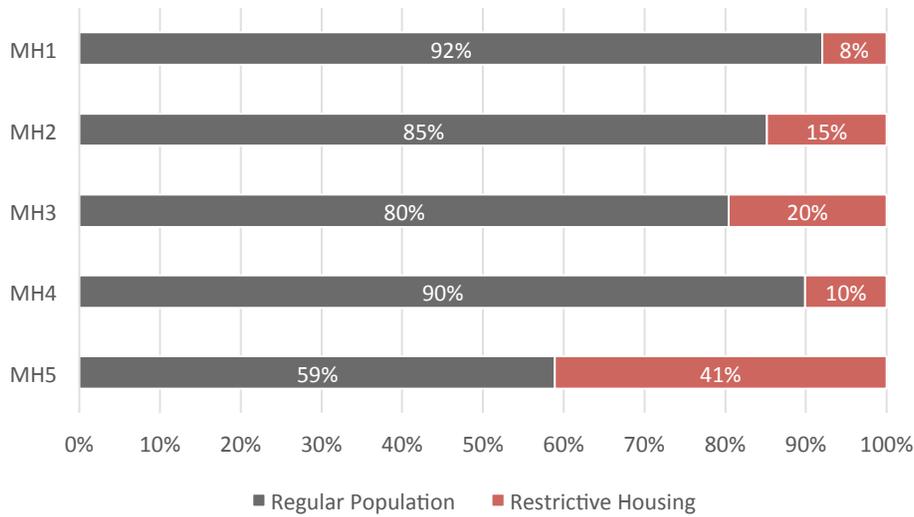
<sup>73</sup> DPS assesses all individuals on a scale of mental health treatment needs, from M1 to M5: M1 indicates no mental health treatment needs, M2 indicates mental health treatment provided by psychology staff only, M3 indicates treatment provided by both psychology and psychiatry staff, M4 indicates a residential treatment level of care, and M5 indicates inpatient psychiatric treatment.

<sup>74</sup> D.J. James and L.E. Glaze, *Mental Health Problems of Prison and Jail Inmates* (Washington, DC: Bureau of Justice Statistics, 2006).

<sup>75</sup> See explanations of M1-M5, above.

Figure 11

**Location of People on Snapshot Date, by Mental Health Code**



**Finding G4. The same disciplinary process applied to all incarcerated people, unless they were designated as developmentally delayed or receiving inpatient mental health treatment.** DPS, however, is working on a draft disciplinary policy that will create special accommodations and protections for individuals assessed at levels M3-M5.

**Finding G5. Incarcerated people with M3 codes were overrepresented in RHDP, RHAP, and Control.** They made up only 8 percent of the regular population, but 14 percent of the RHDP population, 15 percent of the RHAP population, and 24 percent of the Control (ICON, MCON, and HCON) population. (See Table 6.)

Table 6

**Breakdown of Restrictive Housing Populations, by Mental Health Code**

Mental Health Code	RHAP	RHDP	Control	MODH	PCON	Total Population
M1	80.6%	80.8%	67.7%	89%	77%	88.7%
M2	2.9%	2.4%	5%	2.5%	3.8%	2.2%
M3	14.6%	13.8%	24.5%	8.5%	19.2%	8.1%
M4	0.9%	1.3%	0.6%	0	0	0.7%
M5	1%	1.6%	2.2%	0	0	0.3%
<i>Total</i>	<i>100%</i>	<i>100%</i>	<i>100%</i>	<i>100%</i>	<i>100%</i>	<i>100%</i>

**Finding G6. Incarcerated people with M3 codes were overrepresented in ICON (where they accounted for 23 percent of the total ICON population), MCON (30 percent), and HCON (17 percent).** In comparison, people with M3 codes accounted for only 8 percent of the total incarcerated population.

**Finding G7. DPS has created programming and out-of-cell opportunities for individuals who are housed in the Central Prison inpatient mental health facility.** The “Treatment Mall” at Central Prison provides an array of evidence-based treatment programs for incarcerated people who require an extra level of care and treatment. For four hours per day, Monday through Friday, over 100 individuals on Unit 6 go to the Treatment Mall for programming. People rotate into various “classes” in an open, school-like environment. Staff reported that overall it was going well and they had seen very few incidents that would raise concerns about the safety of this kind of approach.

**Finding G8. Incarcerated people requiring residential mental health treatment could also be on Control status.** On the snapshot date there were a total of 36 individuals with M4 or M5 codes who were in either ICON or MCON. Central Prison generally houses these people in the 2100 and 2200 blocks. Staff there reported that there was not much programming for these individuals, but that they were able to waive some of the restrictive, Control-level conditions of confinement for this population, to allow some additional out-of-cell time or regular population privileges.

**Finding G9. Incarcerated people who were precluded from going to HCON because of their serious mental health needs were housed on MCON, in Unit 1 at Central Prison. However, Unit 1 is a typical restrictive housing unit, not a mental health unit.**

**Finding G10. Correctional officers recognized that a high proportion of incarcerated people in restrictive housing have mental health care needs.** Some correctional officers reported they had neither the training nor the resources to meet these needs.

## **Reforms in Mental Health Care and Restrictive Housing**

Since joining the Safe Alternatives to Segregation Initiative, DPS has made significant steps in changing the treatment of incarcerated people with mental health needs with regards to restrictive housing. DPS now declares that the “placement of a mentally ill inmate in restrictive housing is discouraged and shall take place only as a last resort,” and “such placement should be

limited to 30 days in one calendar year.”<sup>76</sup> This policy, the “Suicide Prevention Program,” includes additional reforms, such as procedures for early identification and detection of at-risk people and supplemental training for staff who work with people who frequently engage in self-injurious or suicidal behavior.<sup>77</sup>

Along with this new policy, DPS has begun creating Therapeutic Diversion Units (TDUs) to divert individuals with M3 codes from RHCP. Spearheaded by DPS’s Behavioral Health Director Dr. Gary Junker, DPS opened TDUs in four facilities this year (Central Prison, NCCIW, Polk, and Maury) and plans to develop four more in 2017. Incarcerated people in these units will have, at a minimum, 10 hours of structured time and 10 hours of unstructured time out-of-cell per week. DPS staff will provide evidence-based treatment and programming on a phased system. The length of stay will be approximately six months, but will be based on individual determinations. M3 individuals currently in RHCP will be prioritized for placement in the TDUs, with the first priority for people within one year of release from DPS custody.

One concern with the planned TDUs is that the number of M3 people in Control during Vera’s assessment exceeds the intended number of TDU beds. DPS is planning to have four TDU units, with 128 beds, available in 2016, and four additional TDUs in 2017. However, on the snapshot date, there were 309 incarcerated people with an M3 designation in some form of Control housing. As DPS works to reduce the use of RHCP overall, the agency must work to ensure a sufficient number of TDU beds.

Finally, DPS is making changes to their disciplinary policy. A draft policy includes reforms such as no longer designating acts of self-harm as an infraction and providing some additional protections to individuals with mental illness during the disciplinary process.

## **Recommendations Regarding Mental Health and Restrictive Housing**

**Recommendation G1. Work to quickly, effectively, and fully implement the numerous reforms laid out in the “Suicide Prevention Program.”** Where such reforms require additional resources, work with government leaders to secure sufficient funding for implementation.

- a. Monitor mental health diagnosis data to determine if reforms to the screening process result in an increase in the number of incarcerated people identified as requiring mental health treatment, and if so, make additional resources available to address this need.**

**Recommendation G2. Conduct an assessment of each facility that houses incarcerated people with mental health needs to identify the mental health staffing**

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<sup>76</sup> North Carolina Department of Public Safety, Health Services Policy and Procedure Manual, Policy #TX-III-9, “Suicide Prevention Program” (Effective Date: 09/01/16).

<sup>77</sup> Ibid.

**vacancies and the causes of these vacancies.** For example, during Vera’s facility visits, staff reported causes of staffing shortages as disparate as lower salary than at neighboring prisons to a shortage of mental health staff in particular geographic areas. Once the causes are determined, DPS can strategize on how best to employ and retain necessary mental health staff.

**Recommendation G3. To help prevent incarcerated people with mental health needs from being placed in restrictive housing, increase capacity for delivering quality mental health services and programming to people in regular population in all facilities.** In particular, services should address needs and prevent decompensation. DPS can look to programming already being successfully implemented within its own system. For example, Dr. Martin, Senior Psychologist at Warren Correctional Institution, discussed the success of specialized groups she is able to offer to individuals with specific mental health needs and even those who do not receive any type of formal mental health treatment. She highlighted the Motivational Art Group, the Mediation Group, and the For Us, By Us (FUBU) Creative Writing Group.

**Recommendation G4. Enact policies that prohibit people with serious, persistent mental illness from being placed in forms of restrictive housing that limit meaningful access to social interaction, environmental stimulation, and therapeutic programming.** The U.S. Department of Justice, the National Commission on Correctional Health Care, and the American Correctional Association all recently issued statements that people with serious mental illness should not generally be placed in restrictive housing due, in part, to the increased vulnerability these people have to the harms of isolating conditions.<sup>78</sup> DPS, too, has recognized how detrimental restrictive housing can be for this population; new policy limits restrictive housing to 30 days in a calendar year for incarcerated people with serious, persistent mental illness. When those with mental illness are placed in restrictive housing, conditions must be different for them, and they must receive *a minimum* of 10 hours structured out-of-cell time and 10 to 15 hours of unstructured out-of-cell exercise or recreation time per week.<sup>79</sup>

**Recommendation G5. Vera supports DPS’s commitment to changing the disciplinary policy for the M3-M5 population. Changes should include:**

- a. M3-M5 incarcerated people must be provided with a mental health assessment to determine if a) they are able to participate in the disciplinary**

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<sup>78</sup> U.S. Department of Justice, *Report and Recommendations Concerning the Use of Restrictive Housing*; National Commission on Correctional Health Care, “Position Statement: Solitary Confinement (Isolation)””; Bridget Bayliss Curren, Director, Standards and Accreditation, American Correctional Association, email communication with Allison Hastings, Vera Institute of Justice, June 28, 2016; and American Correctional Association, “Restrictive Housing Performance Based Standards” (2016).

<sup>79</sup> Jeffrey Metzner and Joel Dvoskin, “An Overview of Correctional Psychiatry,” *Psychiatric Clinics of North America* 29 (2006): 761-772.

**process, and b) if they require a higher level of mental health treatment.** If a higher level is required, then the incarcerated person should be diverted to a residential mental health unit or a supportive unit in the regular population, rather than continue with the disciplinary process. If they can participate in the disciplinary process, ensure their mental health status is taken into account (see sub-recommendations below).

- b. Enact policies that prohibit the placement of the M3-M5 population in RHAP for pre-hearing investigation unless absolutely necessary to respond to an immediate threat to staff or other incarcerated person's health or safety.** If pre-hearing confinement is used, the individual must be evaluated frequently with the goal of returning them to less-restrictive housing as soon as possible. If an incarcerated person remains in pre-hearing confinement, their mental health evaluation should be conducted within 24 hours.
- c. Enact strict restrictions on placing people with serious and persistent mental illness in RHDP.** Prioritize using alternative sanctions for disciplinary infractions. For particularly serious infractions, consider using Modified Housing as an alternative to RHDP. Ensure that a disciplinary sanction does not inhibit an incarcerated person's access to mental health treatment; incarcerated people must be able receive the services required by their comprehensive case plan even while under a disciplinary sanction.

**Recommendation G6. To address immediate needs during the construction and development of the TDUs, DPS should take measures to create less isolating and more therapeutic housing environments for the M3 population currently in**

**Control:**

- a. Make an individualized determination for every person with M3 treatment needs in Control as to whether there are continuing security justifications for maintaining the individual in Control housing, and find alternative, less-restrictive settings whenever possible.**
- b. Provide additional access to mental health clinicians and staff in restrictive housing.** Where not currently available, provide space for incarcerated people to meet with clinicians in an out-of-cell, confidential setting. Additionally, ensure that any incarcerated person is able to continue to receive the therapy or mental health programming that they received in regular population, and that they receive any additional treatment necessitated by their being housed in a significantly more restrictive and isolating environment.

- c. **Increase out-of-cell time.** Perhaps by housing incarcerated people with similar mental health needs together in certain Control units, staff resources could be most efficiently used to provide both treatment and greater out-of-cell time.

**Recommendation G7. To support the Therapeutic Diversion Units:**

- a. **Provide significant trainings in crisis intervention to the security staff in the TDUs, and ensure that they are prioritized in receiving Mental Health First Aid and achieve the Mental Health/Behavioral Health ACA certification.** Additional trainers may be needed to provide relief to the mental health providers who are currently providing this instruction.
- b. **Ensure that trainings provided to staff in the TDU established at North Carolina Correctional Institution for Women (NCCIW) are geared toward working with *women* with mental health needs.** Consider ways that this TDU should differ from the TDUs designed for men, such as having gender- and trauma-informed treatment, programming, and disciplinary processes.
- c. **Expand incentives and strategies to encourage participation in programming for incarcerated people in the TDUs.** Colorado and Pennsylvania, for example, make use of their dog training program to draw reluctant individuals out of their cells. One facility in Pennsylvania starts with an hour of recreation and games prior to the hour of programming.
- d. **In creating the TDUs, consider the importance of the environment and physical plant of the unit, which can foster or hinder a therapeutic environment.** For example, Pennsylvania has allowed incarcerated people to paint murals throughout the facility that houses people with serious mental illness. The unit in Polk Correctional Institution designated to be one of the TDUs currently has the stark appearance of a standard restrictive housing unit; DPS should consider how it can be made to feel more therapeutic and conducive to mental health treatment, or whether a more suitable unit should be used instead.
- e. **Ensure that the number of TDU beds will adequately address the need for these beds.**

**Recommendation G8. In conjunction with the development of the TDUs, DPS should establish a less-restrictive, therapeutic step-down unit for people leaving a TDU before returning to regular population.** This unit could also be used as a “step-up” housing option for someone who appears to be decompensating in regular population, to divert them before they commit an infraction that could result in their placement in a TDU. This unit

should mirror regular population privileges, but allow for greater observation and treatment opportunities. These regular population units could allow DPS to efficiently and effectively provide enhanced services and privileges—including expanded programming to improve behavioral and emotional adjustment and more frequent direct contact with mental health staff—than in non-specialized regular population units. These units could also tailor their use of the disciplinary process to this population; staff could receive training on appropriate behavioral expectations and use appropriate swift and certain sanctions, with disciplinary segregation used sparingly, if at all.

**Recommendation G9. For people with residential mental health needs (codes M4 and M5):**

- a. Ensure that every incarcerated person who requires residential mental health treatment, including those who are housed at Maury Correctional Institution, has access to the types of programming offered at the Treatment Mall at Central Prison.** Continue to reinforce with staff at these facilities the importance of treatment and programming. Treatment classes and programs are not privileges, and staff should never restrict attendance at classes as a sanction.
- b. Reexamine the way in which people with both mental health needs requiring residential mental health treatment and greater security needs are housed to ensure social interaction, environmental stimulation, and the provision of therapeutic programming.** Explore ways in which the Treatment Mall can be used for incarcerated people who have been classified to Control in the residential mental health unit. Model it on the TDU's balance of providing treatment and congregate activity. Follow other jurisdictions such as Colorado and Pennsylvania and ensure people with residential mental health needs receive *at a minimum* 10 hours of structured and 10 hours of unstructured out-of-cell time per week.
- c. To address immediate needs, DPS should provide training and written guidance on the importance of waiving the policy on conditions of confinement when appropriate.** Upon recommendation from treatment staff, a facility can waive some of the restrictive conditions of confinement required in Control, in order to allow an incarcerated person who is on Control status in the residential mental health unit to participate in programming and have increased out-of-cell time. During Vera's visit to Maury Correctional Institution, staff there seemed unaware that waiving the restrictions on conditions of confinement in Control housing for incarcerated people on the residential mental health unit was an option. Subsequent conversations with Dr. Junker, however, highlighted that these people are getting additional out-of-cell time.

## H. Youthful Offenders

DPS recently announced that they would no longer use restrictive housing for “youthful offenders,” i.e., “juveniles under the age of 18 who have been adjudicated and committed by a judge to a period of confinement in an adult facility due to a crime of a felonious nature.”<sup>80</sup> Vera applauds this policy change, particularly in light of the research on the deleterious effects of restrictive housing on incarcerated youth. Although there is not as much research on the impacts of segregated housing on youth as there is on adults, the existing studies have found that placing youth in restrictive housing is correlated with significantly higher rates of suicide as well as with post-traumatic stress disorder (PTSD), depression, and future criminal activity.<sup>81</sup> The psychological harm caused by the solitary confinement of young people in juvenile and criminal justice settings can exacerbate preexisting mental illness and increase the likelihood of subsequent drug abuse.<sup>82</sup>

Although DPS now prohibits the placement of youth in restrictive housing, Vera is including our findings from the assessment in this report as a baseline that DPS can use to gauge the impact of its reforms. Vera’s findings come from an analysis of administrative data from 2015 regarding the population aged 17 years and under, a review of DPS policies, and a tour and meeting with staff at Foothills Correctional Institution (Foothills) and North Carolina Correctional Institution for Women (NCCIW). Foothills is the only facility that houses the male 17-and-under population; NCCIW houses the females.

### Findings

**Finding H1. On the snapshot date (July 30, 2015), 32 percent of youth age 17 and under were in restrictive housing.**

**Finding H2. Segregation was used disproportionately for youth, as compared to the rest of the population.** The proportion of incarcerated people held in restrictive housing was by far the highest for the under-18 population. As noted above, 32 percent of this population was in restrictive housing on the snapshot date, compared to 17 percent of the 18- to 25-year-olds and around 8 percent of the 26-and-older population. (See Figure 14 below, on page 70.)

**Finding H3. On the snapshot date, the majority of youthful offenders held in restrictive housing were there in response to rule violations.** Seventy-five percent of youth in restrictive housing were serving disciplinary sentences or being held pending investigation.<sup>83</sup> (See Figure 12.)

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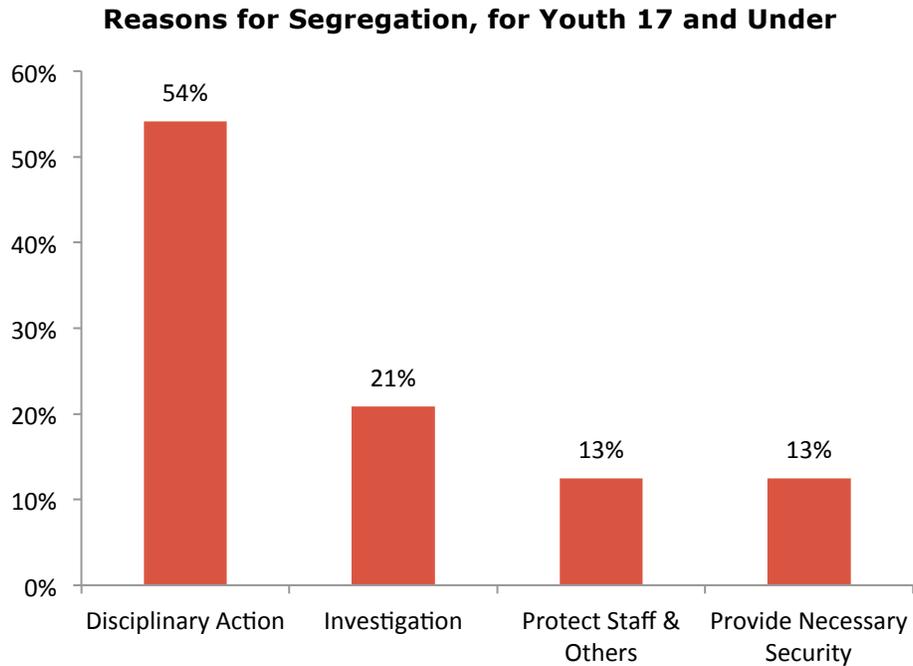
<sup>80</sup> North Carolina Department of Public Safety, “Youthful Offender Program,” 2016.

<sup>81</sup> Tamar R. Birkhead, “Children in Isolation: The Solitary Confinement of Youth” (October 21, 2014), *Wake Forest Law Review* 50, no. 1 (Forthcoming, 2015). UNC Legal Studies Research Paper No. 2512867.

<sup>82</sup> *Ibid.*, p. 13.

<sup>83</sup> Though per policy, investigations are not necessarily in response to rule violations.

Figure 12



**Finding H4. Disobeying an order and profane language accounted for 40 percent of infractions that resulted in a disciplinary segregation sanction.** (See Table 7.)

Table 7

**Top 5 Infractions Leading to Segregation, for Youth 17 and Under<sup>84</sup>**

Infraction	Frequency	Percent
Disobey an Order	130	24.2%
Profane Language	89	16.5%
Fighting	86	16.0%
Involvement with STG	60	11.2%
Lock Tampering	48	8.9%

**Finding H5. During a one-year period, of all misconduct incidents committed by a youth with at least one guilty charge, 99.7 percent resulted in a disciplinary segregation sentence.**<sup>85</sup> This is just as high as for the population overall. (See Table 2 on page 28, above.)

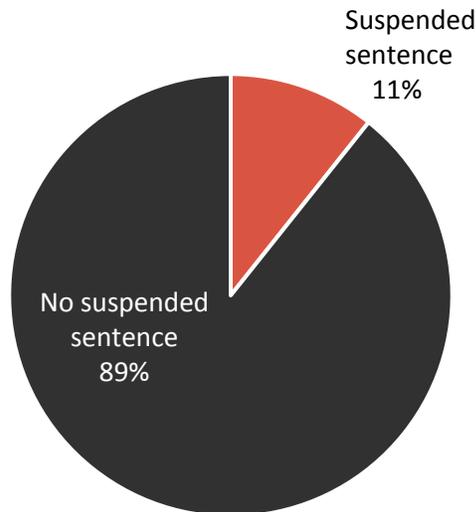
<sup>84</sup> Figures in the table refer to the yearlong period ending June 30, 2015. Security Threat Group (STG) was the term previously used to refer to a Security Risk Group (SRG), or prison gang.

<sup>85</sup> An "incident" is one or more infractions committed at the same time by the same person.

**Finding H6. Segregation sentences were suspended less frequently for youth than for adults.** While Vera’s analysis showed that segregation sanctions were suspended for 33 percent of disciplinary incidents for the total population, they were suspended for only 11 percent of incidents for people under the age of 18. (See Figure 13.)

Figure 13

**Use of Suspended Disciplinary Sentences, for Youthful Offenders**



**Finding H7. Average disciplinary segregation sentence lengths were roughly similar for youthful offenders and adults.** (See Table 8.)

Table 8

**Average Length of Disciplinary Segregation Sentences, by Age**

Age	Number of DS Sentences	Mean Number of Days Sentenced to RHDP	Standard Deviation
17 and younger	338	35.4	15.76
18 to 25	15,709	30.14	15.04
26 and older	31,871	31.47	14.81

**Finding H8. Thirty-four percent of incidents committed by youthful offenders resulted in a loss of phone privileges in addition to disciplinary segregation; 50 percent of incidents resulted in a loss of visits in addition to disciplinary segregation.** Twenty-two percent of incidents resulted in a loss of *both* phone and visitation. As noted above, family engagement can lead to better outcomes for incarcerated people. Staff

reported that it was often difficult for youth to maintain family engagement, and when youth leave Foothills or DPS custody, they are often no longer returning to their family's home. Moreover, the policy regarding phone calls that governs adults in close custody housing also applies to youth: phone calls are only allowed twice a month.

**Finding H9. One-fifth of the incarcerated youth in segregation were in Control housing.** Staff at Foothills reported that with only one regular population unit in which to hold youthful offenders, restrictive housing was sometimes used to keep people apart who could not be held together—codefendants or people with rival SRG affiliations, for example.

**Finding H10. On the snapshot date, over one-third of incarcerated youth in restrictive housing had mental health needs requiring an M3 level of treatment or above.** Juveniles and individuals with mental health needs are the two populations most at risk for psychological harm when in restrictive housing. It is concerning that at Foothills, not only were a high proportion of youth held in restrictive housing, but 38 percent of them (nine young people) required mental health treatment.

**Finding H11. Lack of adequate programming and engaging activities in regular population led to idleness, which is particularly problematic for young people and can lead to behavioral problems and disciplinary infractions.** Staff reported a great need for additional programming and transitional services for youth, such as basic life skills and job skills training. Staff reported that many of the youth came to Foothills from a parent's house, but many will re-enter the community as an independent adult. One staff member suggested that they could begin to address this challenge by expanding the "Job Start" program to the 17-and-under population.

Moreover, staff estimated that a vast majority of youthful offenders have substance abuse issues. Currently, Foothills does not have the capacity to provide the necessary substance abuse treatment, and staff are finding it difficult to identify community volunteers to lead these programs.

Staff reported that the local community college is willing to conduct educational programming in the facility. Foothills, however, is finding it difficult to have enough youth available to take these classes, partly because, as noted above, at any one time a high percentage of youth are in restrictive housing and unable to participate. Additionally, there are not always enough youth interested in taking a class for it to be offered. DPS does not allow youth and those over 18 years of age to take the same classes.

Foothills staff spoke proudly of the education they provide for the youth and of their new school building. Additionally, staff spoke highly of some innovative programming and incentives that they are able to offer to the youth in regular population, such as their music therapy program and the provision of art supplies.

**Finding H12. There is often de facto segregation for females age 17 and under who are incarcerated at NCCIW.** During Vera’s tour of NCCIW, there was only one female under age 18 in DPS custody. To comply with the Prison Rape Elimination Act (PREA), an entire unit was reserved for this one person—including a dining room, dayroom, bathroom, two classrooms, library, two bedrooms, canteen, restrictive housing cell, and outside recreation area. Even within this isolated environment, the lone girl was in disciplinary segregation during Vera’s tour of NCCIW. DPS has since arranged to house a youthful offender from another state at NCCIW, to provide company for this individual.

## **Reforms: The Youthful Offender Program**

DPS’s new Youthful Offender Program goes beyond simply prohibiting putting youth in restrictive housing; it identifies that, “[s]upervision methods used with adults simply do not work with this population, and ... supervision should be based on building positive relationships utilizing specific communication skills and using a positive discipline approach to teach new behaviors and self-control.”<sup>86</sup>

As noted above, restrictive housing will no longer be used for this population. Loss of privileges is now the primary corrective action. If, however, a youth needs to be separated, he may be assigned to Modified Housing “for the least amount of time necessary for the offender to achieve behavioral correction.”<sup>87</sup> The maximum time allowed in Modified Housing is 10 days for a Class A infraction, the most serious infraction level. The new policy dictates that Modified Housing will allow youth to maintain pro-social interaction and will provide access to programs, recreation, education, health care, and religious services that is *equal* to the access given in regular population.<sup>88</sup>

The Youthful Offender Program also details that incentives, such as puzzle books, movies, popcorn, or participation in Field Day, will be “frequently utilized.”<sup>89</sup> Finally, it ensures that staff at Foothills receive additional training specific to crisis intervention with youth, and states that staff should provide youth with both informal reinforcement through positive praise and formal reinforcement through evidence-based cognitive behavioral interventions.

## **Recommendations for the Youthful Offender Program**

These recommendations are meant to build on the progress DPS has already made in creating its new Youthful Offender Program.

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<sup>86</sup> NCDPS, Youthful Offender Program, 2016, p. 2.

<sup>87</sup> *Ibid.*, p. 5.

<sup>88</sup> *Ibid.*, p. 6.

<sup>89</sup> *Ibid.*, p. 8.

**Recommendation H1. Clarify how Modified Housing will be used, if and when it can be used for purposes other than a disciplinary sanction, and how young people are placed there, how long they stay, and how they are able to leave.**

- a. Provide more intensive programming in Modified Housing to more effectively change behavior during the periods youth are housed there.**

**Recommendation H2. Continue to foster ways for regular population to be developmentally appropriate and promote positive behavior, in order to reduce disciplinary infractions.**

- a. Continue to find ways to increase family engagement.** Allow more phone calls and plenty of visits. Video visitation could be used as a supplement to (but not a replacement for) phone calls and visits, with locations throughout the state where families can go to communicate via video.
- b. Increase programming, engaging activities, and mental health treatment, to reduce idleness.** DPS should provide significant levels of programming and activities for young people, including education and programs that develop pro-social problem-solving skills. DPS can ensure adequate participation in education and programming by allowing youth and young adults at Foothills or NCCIW to participate together in certain supervised classes or activities, such as a community college class with a minimum required number of participants, or a program like music therapy that an individual wants to continue even after turning 18. As long as there is adequate, direct adult supervision, DPS would remain compliant with Foothills' current Standard Operating Procedure (SOP) (which requires "direct staff supervision when youthful inmates and adults are together"), DPS policy, and the Prison Rape Elimination Act (PREA).<sup>90</sup> This would allow DPS to offer additional classes to the male youth population (classes which currently might not be offered because there are not enough under-18 individuals to fill them) and could also be extremely impactful for the girls, since there is seldom more than a handful of under-18 girls at NCCIW.
- c. Expand on the incentives for positive behavior that will be offered under the Youthful Offender Program. In particular, consider options that provide greater autonomy as an incentive.** For example, some juvenile justice systems have used incentives involving greater personal liberties, like having alarm clocks, having a later "lights out" time, additional room amenities, increased responsibilities, or certain

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<sup>90</sup> The PREA standard on youthful inmates (115.14) states: "Youthful inmates may participate in congregate and other activities with adult inmates if there is direct supervision at all times." U.S. Department of Justice Final Rule: National Standards to Prevent, Detect, and Respond to Prison Rape Under the Prison Rape Elimination Act (PREA), Standard 115.14, "Youthful inmates."

personal dress options. These types of incentives seem to be very effective and can have the added benefit of teaching youth self-management and personal responsibility.

**d. Provide regular risk and needs assessments to inform appropriate treatment plans for individual young people and to promote rehabilitation.**

The risk and needs of teenagers change over time and they require a behavior plan that is continuously updated to match.<sup>91</sup> Allow the youth's participation in the creation of his or her treatment plan.

**e. Ensure appropriate staff are selected to work with youthful offenders; they should have the necessary motivation, skills, and training to work with this population.** DPS is planning to offer staff trainings specific to crisis intervention with youth. Additionally, DPS should ensure frequent trainings on adolescent development and developmentally appropriate management strategies, for all staff from multiple disciplines. It is important to ensure adequate staffing of social workers, programming staff, and mental health professionals at facilities with youthful offenders.

**Recommendation H3. Ensure that a gender-informed Youthful Offender Program is offered to 17-and-younger females at NCCIW, with a similar prohibition against placement in restrictive housing and a focus on developmentally appropriate policies.** Alternatively, examine what existing policies or laws could be changed in order to allow the under-18 population to be held in the juvenile justice system. This could be particularly helpful to the female youthful offender population since, according to staff as well as Vera's observation, there are never more than a few girls in DPS custody at one time.

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<sup>91</sup> Ian Kysel, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States* (Human Rights Watch/American Civil Liberties Union, 2012).

## I. Young Adults

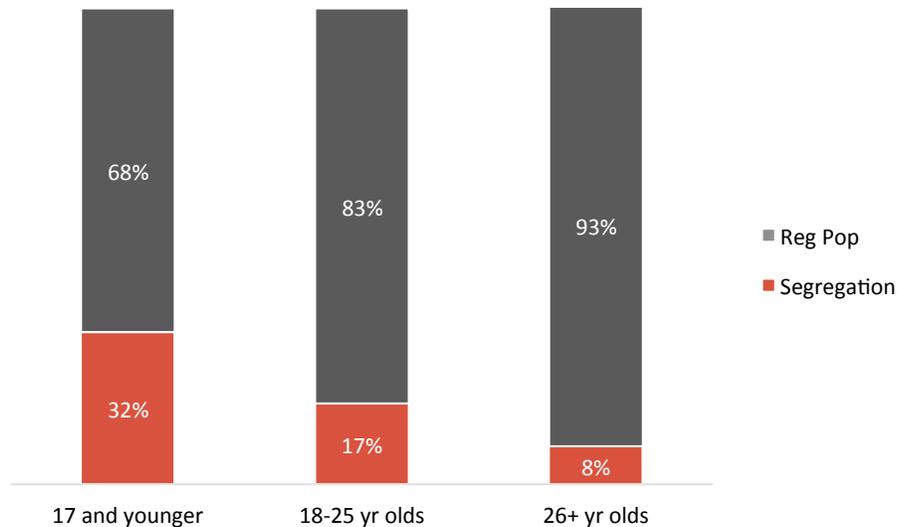
Research on brain development has found that young adults are a distinct developmental group, particularly in regards to impulsive behavior, risk-taking, and decision-making.<sup>92</sup> By housing the young adult population together at Polk Correctional Institution and Foothills Correctional Institution, DPS has acknowledged that this population is distinct from the older adult population.

### Findings

**Finding I1. A significant proportion of the young adult population (ages 18-25) was held in restrictive housing, compared to the 26-and-older population.** On the snapshot date, 17 percent of the young adult population was held in restrictive housing, compared to only around 8 percent for the 26-and-older population. (See Figure 14.) Seventy percent of 18- to 25-year-olds had spent at least one night in restrictive housing during the previous year.

Figure 14

**Percentage of the Population Held in Segregation or Regular Population, on the Snapshot Date, by Age Group**

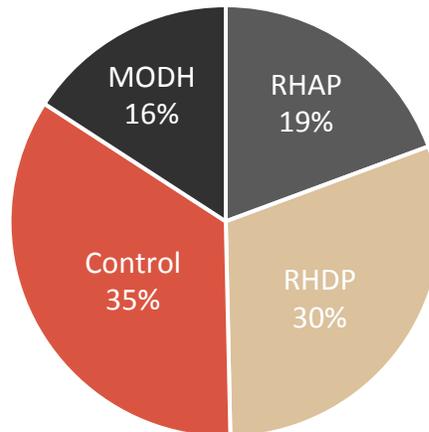


<sup>92</sup> Council on State Governments Justice Center, "Reducing Recidivism and Improving Other Outcomes for Young Adults in the Juvenile and Adult Criminal Justice Systems" (November 2015).

**Finding I2. Almost half the young adult population in restrictive housing was there for investigation (RHAP) or as a disciplinary sanction (RHDP). (See Figure 15.)**

Figure 15

**18- to 25-year-olds in Restrictive Housing on the Snapshot Date**



**Finding I3. Over one-third of the young adult population in restrictive housing (35 percent) was in Control. (See Figure 15, above.)**

**Finding I4. DPS had specifically designated facilities for the young adult population in Polk Correctional Institution and Foothills Correctional Institution; however, there was no specific programming or behavioral management tools targeted at this distinct population.** Programs offered at Polk included academic and vocational classes, Alcoholics and Narcotics Anonymous meetings, incentive-wage jobs, and chaplain services—programming that is found in many, if not all, DPS adult facilities—but nothing targeted at young adults. Polk also reported that there were many staffing vacancies and that retention of program staff was a major problem, inhibiting the potential to provide programming targeted at the young adult population. Additionally, Vera heard that in the 1990s, there used to be a specialized training program for Youth Command, which focused on how to manage youth and young adults, but this training is no longer offered.

**Finding I5. DPS had identified only 6.6 percent of the young adult population as having M3-M5 level mental health treatment needs (the three levels indicating the highest mental health care needs).** Moreover, young adults requiring M3 level treatment were overrepresented in both RHDP and Control. While incarcerated people designated as M3 accounted for only 5.8 percent of the total population aged 18-25, they accounted for 10 percent of the RHDP population and 19 percent of those in Control Housing.

## **Recommendations for Young Adults**

**Recommendation I1. Consider how principles and ideas from the “Youthful Offender Program” could be applied to the young adult population.** In many ways young adults are similar to the youthful offender population. Dr. Sandra Aamodt, a neuroscientist who has written extensively on the brain’s development, explained that an 18-year-old person’s brain is about halfway through the process, begun at puberty, of developing the prefrontal cortex—the part of the brain that helps to inhibit impulses and to plan and organize behavior to reach a goal.<sup>93</sup> In many ways, the young adult population is similar to the youth population and can benefit from the principles and ideas developed in the Youthful Offender Program.

**Recommendation I2. Tailor programming and services for this population that include cognitive-behavioral therapy, substance abuse treatment, and educational and vocational training, to improve behavior and outcomes.** For example, Maine has a “Young Adult Offender Program,” which specifically targets 18- to 25-year-olds with an individualized, rehabilitative approach. Each person has an individualized case plan, including GED completion, Aggression Replacement Therapy and Thinking for a Change programming, vocational training, and classes on parenting and domestic violence prevention. State Correctional Institution Pine Grove in Pennsylvania runs a multi-phased therapeutic community program for both juveniles and young adults, which focuses on behavioral interventions, education, and vocational programming

**Recommendation I3. Form a workgroup focused on the young adult population to spearhead the implementation of developmentally responsive policies, practices, and programming for young adults, in order to reduce the number of incidents that result in disciplinary sanctions and to promote rehabilitation.**

**Recommendation I4. Provide specialized training for staff who work with this population.** Among other things, trainings can focus on the need to distinguish developmentally normal behavior from more problematic, disruptive behavior, and how to appropriately respond to each type of behavior.

**Recommendation I5. Increase mental health treatment options within the regular population at Polk. Ensure treatment options are developmentally appropriate, to prevent individuals with mental health needs from ending up in restrictive housing.**

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<sup>93</sup> Tony Cox, “Brain Maturity Extends Well Beyond Teen Years,” National Public Radio, October 10, 2011, <http://www.npr.org/templates/story/story.php?storyId=141164708> (accessed Sept. 1, 2016).

**Recommendation I6. Establish a process where staff and specially trained peers assist incarcerated people coming from Foothills to Polk.** Staff reported that older young adults at Polk sometimes target younger or newer individuals. Trained peers could assist these vulnerable young adults with the transition to life at Polk.

## J. Women in Restrictive Housing

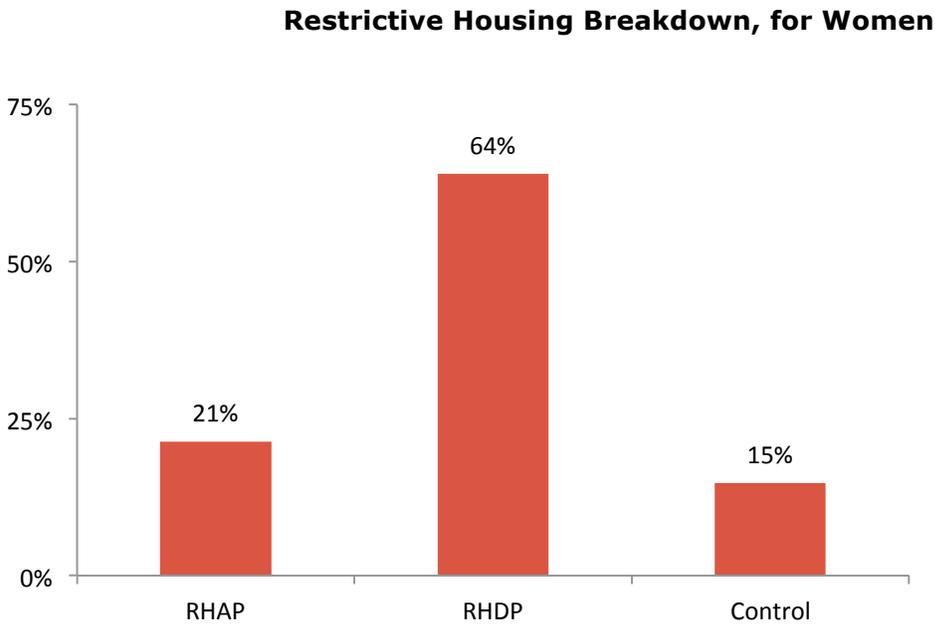
All recommendations made thus far in this report (on conditions of confinement, the disciplinary process, etc.) should be applied not only to men, but also to women in DPS custody. The following are additional findings and specific recommendations regarding the female population.

### Findings

**Finding J1. On the snapshot date (July 30, 2015), five percent of the 2,695 incarcerated women were in restrictive housing.**

**Finding J2. Over 60 percent of women in restrictive housing were there due to disciplinary violations (RHDP). Twenty-one percent were in Restrictive Housing for Administrative Purposes (RHAP). (See Figure 16.)**

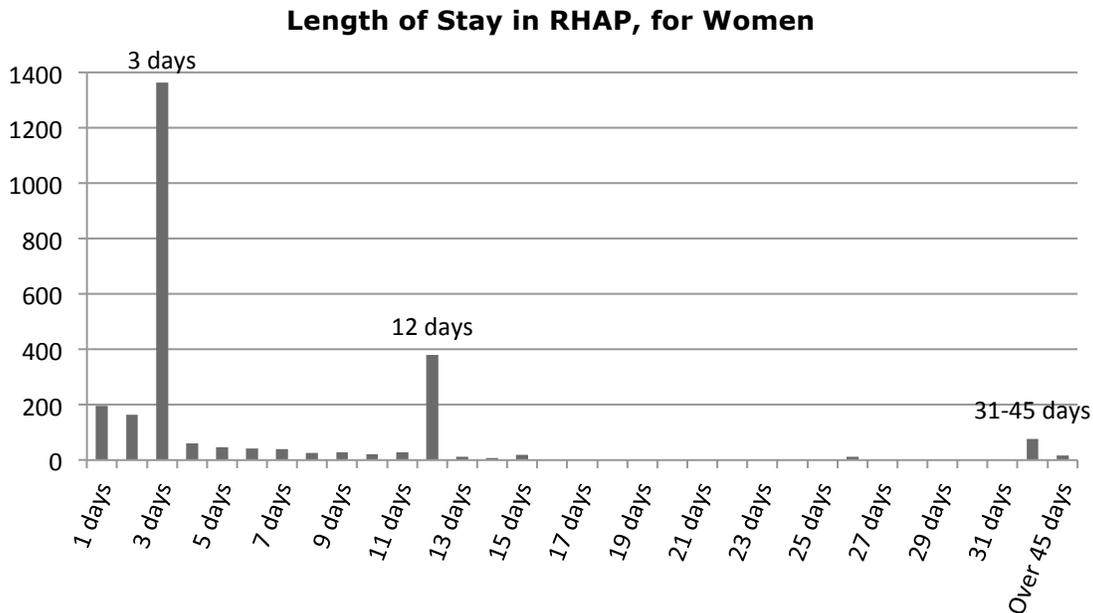
Figure 16



**Finding J3. Placements in RHAP to “preserve order” were a major driver of the female RHAP population.** Over three-quarters of the women in administrative segregation were there to preserve order. This is in contrast to the entire prison population, where RHAP was used for investigation 80 percent of the time (see Finding C2).

**Finding J4.** For women in RHAP, the average length of stay was three days, with an additional spike at twelve days.<sup>94</sup> Some women stayed 30-45 days. (See Figure 17.)

Figure 17



**Finding J5.** On the snapshot date, just under 15 percent of the women in restrictive housing were in Control (ICON and MCON).

**Finding J6.** Of women who left ICON between June 30, 2014 and June 30, 2015, the average length of stay in restrictive housing (of any kind) was 163 days (over five months); for those leaving MCON, it was 381 days (over one year). (See Table 9.)

Table 9

**Length of Stay in Control, for Women**

Control Type	Number	Mean (days) <sup>95</sup>	Median	Standard Deviation
ICON	64	163.2	159.5	77.4
MCON	12	381.3	358	147.3
Total	76	197.7	182.5	120.9

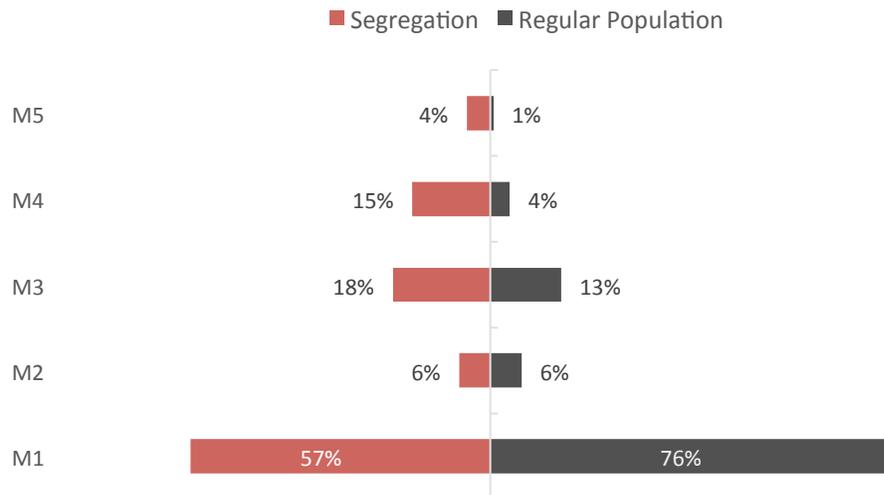
<sup>94</sup> These data refer to women released from RHAP to another form of custody or the community during the yearlong period ending June 30, 2015.

<sup>95</sup> Vera counted the total number of continuous days spent in *any* form of restrictive housing for those whose highest level of placement was ICON or MCON. These figures refer to women who were released from restrictive housing (to regular population or the community) during the year prior to the snapshot date.

**Finding J7. Women with mental health codes M3, M4, and M5 were overrepresented in restrictive housing. (See Figure 18.)**

Figure 18

**Women’s Mental Health Codes, Regular Population vs. Restrictive Housing**



**Finding J8. Eagle Unit, Single Cell B at NCCIW was the only restrictive housing unit Vera observed in North Carolina that does not have outdoor-facing windows in the cells (the only “windows” were metal, mesh-covered openings in the doors that faced the hallway).** Additionally, the unit does not have air conditioning; instead, large, loud fans provide air circulation. At the time of our visit, NCCIW staff had already recognized the shortcomings of conditions on this unit and were considering closing it.

## Recommendations Regarding Women

**Recommendation J1. Conduct a one-time, immediate assessment of all incarcerated women in restrictive housing to determine who can be safely reclassified into regular population.** This examination should be conducted by a multidisciplinary committee to ensure that staff with the appropriate knowledge of mental health needs and treatment are involved in the process, since our data analysis showed an overrepresentation of women with mental health needs in restrictive housing. This process could lead to both a decrease in the restrictive housing population and a greater understanding of who has been unnecessarily placed in restrictive housing, so reforms can be further targeted to address these issues.

**Recommendation J2. Create a “cool-down” or de-escalation space for incarcerated women who are typically sent to RHAP to “preserve order,” as a way to divert them from being placed into RHAP.** Individuals in the cool-down space should be reviewed after a few hours to determine if they are capable of safely returning to regular population. Staff trained in de-escalation techniques could interact with these women to assist them in practicing self-control and regaining their composure. (See also Recommendation C1, above, on limiting RHAP for everyone to times when their presence in regular population poses a danger to the individual, staff, or other incarcerated people.)

**Recommendation J3. Establish a step-down process for women in restrictive housing that allows for increasing opportunities for congregate activity, programming, out-of-cell time, and incentives.** This process should be in a condensed time frame to reflect the shorter average length of stay for women in Control housing compared to men. Alternatively, DPS could consider, as Colorado did, precluding women from ever being placed into long-term restrictive housing.<sup>96</sup>

**Recommendation J4. Ensure that Standard Operating Procedures for female facilities are appropriately gender-specific and include trauma-informed disciplinary sanctions.** Overall, DPS policy is geared toward men. Female facilities, however, can target their policies for women through the Standard Operating Procedures, as long as they are not in conflict with DPS policies. For example, Washington State has implemented trauma sensitive yoga and provided stationary bikes as a way of helping women cope with trauma triggers. Additionally, they offer domestic violence support groups and a peer support program where women conduct low-level dispute resolution.

**Recommendation J5. Close Eagle Unit, Single Cell B at NCCIW.** As mentioned above, this restrictive housing unit is remarkable for being the only restrictive housing unit Vera toured that did not have outdoor-facing windows or air conditioning.

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<sup>96</sup> Rick Raemisch and Kellie Wasco, *Open the Door: Segregation Reforms in Colorado* (Colorado Department of Corrections, 2015).

## K. Release from Restrictive Housing Directly to the Community

DPS releases nearly 23,000 individuals every year from prison to the community, and some of these people are released directly from restrictive housing.

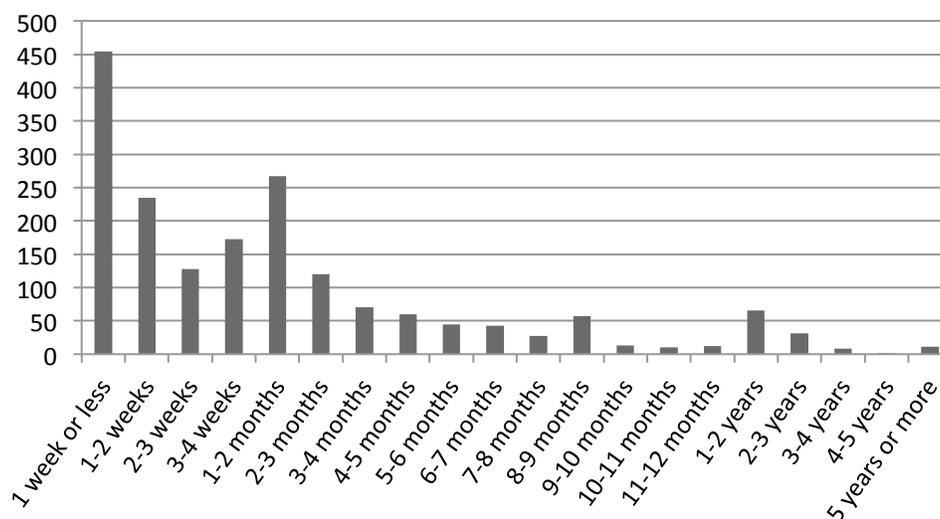
### Findings

**Finding K1. During the 12 months ending June 30, 2015, DPS released 1,832 incarcerated people directly from restrictive housing to the community.** Releasing people directly from segregated housing into the community can make an already difficult transition even more challenging and does not best ensure public safety. Besides the drastic change in environment between restrictive housing and the community, incarcerated people in restrictive housing have typically not benefitted from reentry planning services or rehabilitative programming, such as substance abuse counseling, cognitive-behavioral interventions, or classes related to life skills or anger management. While research is limited and results are mixed, one study found that incarcerated people who are released from segregated housing directly to the community reoffend more quickly and at higher rates than those who spent at least three months back in the general prison population before their return to the community.<sup>97</sup>

**Finding K2. Forty-five percent of incarcerated people entering the community from segregation had spent over one month in segregation directly prior to being released; 15 percent had spent over six months in segregation.** (See Figure 19.)

Figure 19

**Time Spent in Restrictive Housing Before Entering the Community**



<sup>97</sup> See David Lovell, L. Clark Johnson, and Kevin C. Cain, "Recidivism of Supermax Prisoners in Washington State," *Crime and Delinquency* 53, no. 4 (2007): 649-650.

**Finding K3. Facility staff reported that it is challenging to provide reentry planning for incarcerated people in restrictive housing who are returning to the community.**

DPS has prioritized reentry planning and is in the process of making many improvements around reentry planning for people in regular population, including the creation of specialized reentry facilities. Yet individuals in restrictive housing do not have the same level of access to these services as individuals incarcerated in regular population.

## **Recommendations**

**Recommendation K1. Enact policies that prohibit housing incarcerated people who are nearing the end of their time in custody in RHDP or Control.** Ways to achieve this could include:

- a. During the reforms to Control housing, DPS should prioritize moving to the RDU or a TDU incarcerated people in Control who are within 18 to 24 months of release to the community.** For those with less than six months before release, DPS could move them from Control to a Modified Housing unit targeted for reentry, in order to provide them with expanded privileges, congregate activity, and reentry planning, while also providing close observation and security.
- b. For incarcerated people in the RDU, ensure that they are in Phase III and receive robust reentry planning within 180 days of their release.**
- c. Take release date into account when placing people into restrictive housing.** Use alternative disciplinary sanctions, placement into Modified Housing instead of Control, or placement into Phase II of the RDU (as the absolute most restrictive option) for those near release. If an individual commits an infraction near his or her release date, all measures should be taken to use alternative sanctions. For example, in Colorado, Executive Director Rick Raemisch reported that if an incarcerated person is nearing his sentence completion and has committed an infraction that would ordinarily send him to restrictive housing, the incarcerated person might instead bypass restrictive housing and go directly to the first level of Colorado's step-down program, which allows four hours of out-of-cell time a day. DPS could similarly use Modified Housing as an alternative to RHDP or Control.

## V. Conclusion

In recent years, a diverse range of international and national organizations, policymakers, and corrections practitioners have called for reform of 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 2016, many segregation reform efforts are still in their infancy. Still, as the examples discussed in this report make clear, there is much to learn from the ongoing work in states like Colorado, New Mexico, Pennsylvania, Virginia, and Washington.

As the North Carolina Department of Public Safety 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 North Carolina's prisons.

# Appendix: Summary of Recommendations

## A. System-Wide

**Recommendation A1.** Ensure that a continuing focus of the re-missioning process is the reduction of restrictive housing.

- a. Develop processes and designated staff to ensure communication and coordination throughout DPS regarding restrictive housing reform.
- b. Create procedures for sharing DPS data and findings with staff throughout the system, particularly regarding restrictive housing reforms.
- c. As the restrictive housing population decreases and the Control population is consolidated in the Rehabilitative Diversion Units (RDUs), ensure that emptied restrictive housing beds are not used for other forms of restrictive housing, but are instead repurposed.

**Recommendation A2.** Continue to provide staff with de-escalation and communication training and trainings on mental decompensation and mental health needs.

- a. Provide greater opportunities for cross-training between custody, program, and mental health staff.
- b. Prioritize training at the unit manager level, so unit managers can model de-escalation techniques and reinforce their importance.
- c. Implement coaching as a follow-up and complement to classroom-style training.

**Recommendation A3.** Develop strategies to reduce the number of people in custody who commit infractions in order to use restrictive housing as de facto protective custody.

- a. For young people, individuals serving their first prison sentence, and other potentially vulnerable individuals, develop targeted orientations to ease their transition to life in DPS custody, and consider assigning them peer mentors.
- b. Consider creating mission-specific housing units that mix compatible, vulnerable populations in a regular population setting.
- c. Explore violence prevention strategies for regular population.

**Recommendation A4.** Conduct an assessment to determine what contributes to difficulties in filling positions and retaining staff.

**Recommendation A5.** Maintain and expand beneficial programming, education, and activities for incarcerated individuals.

**Recommendation A6.** Allow incarcerated people in regular population (and those in restrictive housing) to have access to a quiet place for a *brief* cooling off period, as an alternative to being placed immediately into segregation.

**Recommendation A7.** Create a committee to study, monitor, and address disproportionate minority contact with the disciplinary process and representation in restrictive housing units.

## **B. Restrictive Housing for Disciplinary Purposes (RHDP)**

**Recommendation B1.** Limit the use of RHDP as a disciplinary sanction to only the most serious infractions.

**Recommendation B2.** Expand available alternative sanctions to RHDP, and allow flexibility so that sanctions can be tailored to each facility.

**Recommendation B3.** Create a graduated response matrix to provide sanctioning guidelines based on behavioral-change management, with an emphasis on alternatives to segregation.

**Recommendation B4.** Shorten the maximum length of time that can be spent in disciplinary segregation.

**Recommendation B5.** Create a formalized system of time credits based on good behavior in RHDP.

**Recommendation B6.** Expand and track the practice of pre-disciplinary counseling, and encourage other informal ways to resolve minor offenses.

**Recommendation B7.** Explore informal responses on the unit for specific infractions, as an alternative to the traditional disciplinary process and RHDP.

**Recommendation B8.** Reduce the number of additional sanctions that are imposed on people who receive disciplinary segregation.

**Recommendation B9.** Improve the conditions of confinement in RHDP.

- a.** Increase frequency and length of both indoor and outdoor recreation, and ensure that recreation is meaningful and offered to incarcerated people seven days a week.
- b.** Provide access to exercise cells in all restrictive housing units *in addition* to currently offered recreation.
- c.** Ensure that incarcerated people are leaving their cells for recreation.

- d. Allow incarcerated persons greater telephone privileges to speak with loved ones during their time in RHDP.
- e. Restrict when restraints are imposed on a person's recreation time to instances of serious assault and ensure multiple layers of review; provide training on when these are appropriate.
- f. Provide opportunities for congregate out-of-cell time and for productive in-cell activities.
- g. Strategize ways to provide incentives for good behavior in disciplinary segregation, such as televisions in the unit, tablets, additional phone calls, or additional time in an exercise cell.

### C. Restrictive Housing for Administrative Purposes (RHAP)

**Recommendation C1.** Amend the policy authorizing RHAP for “necessary control when completing an investigation” to one that allows RHAP for investigation of a disciplinary infraction *only* if the incarcerated person's presence in regular population during the investigation would pose a danger to themselves, staff, or other incarcerated people.

**Recommendation C2.** Require the review of an incarcerated person's placement in RHAP within 24 hours by an appropriate, high-level authority who was not involved in the initial placement decision.

**Recommendation C3.** Create procedures so correctional staff can complete disciplinary investigations as expeditiously as possible and so RHAP is only used for the shortest amount of time necessary.

**Recommendation C4.** Shorten the maximum length of RHAP for all purposes.

**Recommendation C5.** Ensure that any changes to the use of restrictive housing as a disciplinary sanction are also reflected in changes to RHAP. For example:

- a. Enact a policy prohibiting the use of RHAP for investigation of infractions that are not eligible for a disciplinary segregation sanction.
- b. As DPS caps the length of stay in RHDP, enact policies that prohibit an incarcerated person from being held in RHAP for investigation for longer than the maximum RHDP sanction he or she is facing.

## D. Control Housing

**Recommendation D1.** Enact policies that limit Control classification to people who have (1) committed a major disciplinary infraction(s) *and* (2) pose an imminent risk to the life or safety of other incarcerated people and staff.

**Recommendation D2.** As soon as possible, all RHCP housing should be re-configured into RDU step-down units, with increasing out-of-cell time, programming and other cognitive behavioral interventions, and increasing privileges, to prepare people to return successfully to regular population.

**Recommendation D3.** Immediately conduct a system-wide review of individuals who are currently in RHCP or HCON, to identify those who either no longer meet the above recommended criteria for RHCP or who have been free of serious infractions for a significant period of time and can be safely housed in less-restrictive environments.

**Recommendation D4.** Clarify the description of the Director's Classification Authority to specify that it should be a multidisciplinary committee, including representatives from mental health and program staff, to provide the most meaningful and thorough review for placement on RHCP.

**Recommendation D5.** As soon as an incarcerated person is placed in RHCP or HCON, correctional staff should develop, in consultation with the affected person, a clear behavioral plan with the aim of returning the individual to less-restrictive housing as promptly as possible.

**Recommendation D6.** Establish policies that cap the length of time an incarcerated person can stay on RHCP before being reclassified into the RDU.

**Recommendation D7.** Implement strategies for reducing idleness, sensory deprivation, and isolation for people who are in RHCP (but not yet in the RDU) and in HCON.

**Recommendation D8.** Provide trainings around the policy on what are appropriate, limited exceptions to the requirement of providing out-of-cell recreation.

**Recommendation D9.** Provide incentives for positive behavior in RHCP.

**Recommendation D10.** DPS should no longer house people in the current HCON conditions of 24 hours in-cell per day.

- a. Create the opportunity for outdoor recreation in HCON.

- b. In HCON, at-the-cell-door communication and counseling should start immediately, and DPS should prioritize moving restraint chairs to this unit to provide out-of-cell programming.
- c. Consider the provision of televisions or tablets.

**Recommendation D11.** Even with the above recommendations, incarcerated people should only be housed in HCON for the absolute minimum amount of time necessary, and the goal should be to step them down to the RDU as soon as possible.

**Recommendation D12.** Increase the level of scrutiny and review given to incarcerated people being placed on HCON.

**Recommendation D13.** Enact policies to shorten the length of time between reviews of individuals in RHCP, with a goal of returning incarcerated people to either regular population or Modified Housing as soon as this can be done safely.

## **Recommendations for the RDU**

**Recommendation D14.** Shorten the length of the RDU.

**Recommendation D15.** After a brief orientation, incarcerated people should be engaged in out-of-cell time from the beginning of the RDU.

**Recommendation D16.** Consider starting incarcerated people with more privileges, so they have something to lose, as a way to manage behavior without using segregation.

**Recommendation D17.** Develop strategies to engage prisoners who refuse to eat, shower, or participate in programming. Do not punish incarcerated people who are reluctant to leave their cells.

**Recommendation D18.** Structure the RDU to allow incarcerated people who successfully complete the program to lower their SRG validation level.

**Recommendation D19.** For incarcerated people nearing the end of their sentence, ensure that robust reentry services and planning are provided to them during Phase III, including as much interaction with the surrounding community as possible.

**Recommendation D20.** Provide support to incarcerated people upon transition to regular population in other facilities.

- a. Provide custody and program staff at the receiving facilities with additional training and support on the specific needs of this population.
- b. Establish a peer support program.

**Recommendation D21.** Establish and monitor performance measures for the step-down program.

## E. Modified Housing (MODH)

**Recommendation E1.** Make Modified Housing as similar to regular population conditions as possible with regards to out-of-cell time, congregate activity, and privileges.

- a. Increase access to the telephone and allow contact visits, in order to encourage the pro-social relationships and community ties of those in Modified Housing.

**Recommendation E2.** Place a greater emphasis on providing evidence-based programming geared toward behavioral change to decrease future disciplinary infractions.

- a. Create a system to ensure that every Modified Housing unit is following policies and programs with fidelity, to ensure consistency.

**Recommendation E3.** Modified Housing should not be used for people stepping down from the RDU, as that program contains its own step-down process.

## F. Protective Control (PCON)

**Recommendation F1.** Amend policies governing Protective Control status to reflect the current practice of PCON mirroring regular population in terms of out-of-cell time and privileges.

**Recommendation F2.** Increase the availability and variety of housing units for people who do not feel safe in regular population.

## G. Mental Health and Restrictive Housing

**Recommendation G1.** Work to quickly, effectively, and fully implement the numerous reforms laid out in the “Suicide Prevention Program.”

- a. Monitor mental health diagnosis data to determine if reforms to the screening process result in an increase in the number of incarcerated people identified as requiring mental health treatment, and if so, make additional resources available to address this need.

**Recommendation G2.** Conduct an assessment of each facility that houses incarcerated people with mental health needs to identify the mental health staffing vacancies and the causes of these vacancies.

**Recommendation G3.** To help prevent incarcerated people with mental health needs from being placed in restrictive housing, increase capacity for delivering quality mental health services and programming to people in regular population in all facilities.

**Recommendation G4.** Enact policies that prohibit people with serious, persistent mental illness from being placed in forms of restrictive housing that limit meaningful access to social interaction, environmental stimulation, and therapeutic programming.

**Recommendation G5.** Vera supports DPS's commitment to changing the disciplinary policy for the M3-M5 population. Changes should include:

- a. M3-M5 incarcerated people must be provided with a mental health assessment to determine if a) they are able to participate in the disciplinary process, and b) if they require a higher level of mental health treatment.
- b. Enact policies that prohibit the placement of the M3-M5 population in RHAP for pre-hearing investigation unless absolutely necessary to respond to an immediate threat to staff or other incarcerated person's health or safety.
- c. Enact strict restrictions on placing people with serious and persistent mental illness in RHDP.

**Recommendation G6.** To address immediate needs during the construction and development of the TDUs, DPS should take measures to create less isolating and more therapeutic housing environments for the M3 population currently in Control:

- a. Make an individualized determination for every person with M3 treatment needs in Control as to whether there are continuing security justifications for maintaining the individual in Control housing, and find alternative, less-restrictive settings whenever possible.
- b. Provide additional access to mental health clinicians and staff in restrictive housing.
- c. Increase out-of-cell time.

**Recommendation G7.** To support the Therapeutic Diversion Units:

- a. Provide significant trainings in crisis intervention to the security staff in the TDUs, and ensure that they are prioritized in receiving Mental Health First Aid and achieve the Mental Health/Behavioral Health ACA certification.
- b. Ensure that trainings provided to staff in the TDU established at North Carolina Correctional Institution for Women (NCCIW) are geared toward working with *women* with mental health needs.

- c. Expand incentives and strategies to encourage participation in programming for incarcerated people in the TDUs.
- d. In creating the TDUs, consider the importance of the environment and physical plant of the unit, which can foster or hinder a therapeutic environment.
- e. Ensure that the number of TDU beds will adequately address the need for these beds.

**Recommendation G8.** In conjunction with the development of the TDUs, DPS should establish a less-restrictive, therapeutic step-down unit for people leaving a TDU before returning to regular population.

**Recommendation G9.** For people with residential mental health needs (codes M4 and M5):

- a. Ensure that every incarcerated person who requires residential mental health treatment, including those who are housed at Maury Correctional Institution, has access to the types of programming offered at the Treatment Mall at Central Prison.
- b. Reexamine the way in which people with both mental health needs requiring residential mental health treatment and greater security needs are housed to ensure social interaction, environmental stimulation, and the provision of therapeutic programming.
- c. To address immediate needs, DPS should provide training and written guidance on the importance of waiving the policy on conditions of confinement when appropriate.

## H. Youthful Offender Program

**Recommendation H1.** Clarify how Modified Housing will be used, if and when it can be used for purposes other than a disciplinary sanction, and how young people are placed there, how long they stay, and how they are able to leave.

- a. Provide more intensive programming in Modified Housing to more effectively change behavior during the periods youth are housed there.

**Recommendation H2.** Continue to foster ways for regular population to be developmentally appropriate and promote positive behavior, in order to reduce disciplinary infractions.

- a. Continue to find ways to increase family engagement.
- b. Increase programming, engaging activities, and mental health treatment, to reduce idleness.
- c. Expand on the incentives for positive behavior that will be offered under the Youthful Offender Program. In particular, consider options that provide greater autonomy as an incentive.
- d. Provide regular risk and needs assessments to inform appropriate treatment plans for individual young people and to promote rehabilitation.
- e. Ensure appropriate staff are selected to work with youthful offenders; they should have the necessary motivation, skills, and training to work with this population.

**Recommendation H3.** Ensure that a gender-informed Youthful Offender Program is offered to 17-and-younger females at NCCIW, with a similar prohibition against placement in restrictive housing and a focus on developmentally appropriate policies.

## I. Young Adults

**Recommendation I1.** Consider how principles and ideas from the “Youthful Offender Program” could be applied to the young adult population.

**Recommendation I2.** Tailor programming and services for this population that include cognitive-behavioral therapy, substance abuse treatment, and educational and vocational training, to improve behavior and outcomes.

**Recommendation I3.** Form a workgroup focused on the young adult population to spearhead the implementation of developmentally responsive policies, practices, and programming for young adults, in order to reduce the number of incidents that result in disciplinary sanctions and to promote rehabilitation.

**Recommendation I4.** Provide specialized training for staff who work with this population.

**Recommendation I5.** Increase mental health treatment options within the regular population at Polk. Ensure treatment options are developmentally appropriate, to prevent individuals with mental health needs from ending up in restrictive housing.

**Recommendation I6.** Establish a process where staff and specially trained peers assist incarcerated people coming from Foothills to Polk.

## J. Women

**Recommendation J1.** Conduct a one-time, immediate assessment of all incarcerated women in restrictive housing to determine who can be safely reclassified into regular population.

**Recommendation J2.** Create a “cool-down” or de-escalation space for incarcerated women who are typically sent to RHAP to “preserve order,” as a way to divert them from being placed into RHAP.

**Recommendation J3.** Establish a step-down process for women in restrictive housing that allows for increasing opportunities for congregate activity, programming, out-of-cell time, and incentives.

**Recommendation J4.** Ensure that Standard Operating Procedures for female facilities are appropriately gender-specific and include trauma-informed disciplinary sanctions.

**Recommendation J5.** Close Eagle Unit, Single Cell B at NCCIW.

#### K. Release Directly from Restrictive Housing to the Community

**Recommendation K1.** Enact policies that prohibit housing incarcerated people who are nearing the end of their time in custody in RHDP or Control. Ways to achieve this could include:

- a. During the reforms to Control housing, DPS should prioritize moving to the RDU or a TDU incarcerated people in Control who are within 18 to 24 months of release to the community.
- b. For incarcerated people in the RDU, ensure that they are in Phase III and receive robust reentry planning within 180 days of their release.
- c. Take release date into account when placing people into restrictive housing.