



Montana Department of Corrections

Director's Office

Steve Bullock, Governor
Reginald D. Michael, Director

July 16, 2018

Law and Justice Interim Committee Members
Room 102 – State Capitol
Helena, MT 59601

RE: Restrictive Housing

Law and Justice Interim Committee Members:

The Department of Corrections is dedicated to reducing the use of restrictive housing to the greatest degree possible within our agency budgets and while maintaining a safe and secure environment. In recent years, we have sent representatives of secure care facilities in Montana to learn national best practices and to implement solutions found to be successful in other states.

In 2016, the federal government released a report entitled "U.S. Department of Justice Report and Recommendations Concerning the Use of Restrictive Housing." This report includes a series of guiding principles which are intended as best practices for correctional facilities within the American criminal justice system.

Of the guiding principles provided by the USDOJ, the Department has fully implemented 34 of the 53 principles included in the report. These changes, achieved without additional funding, include but are not limited to:

- Inmates should be housed in the least restrictive setting necessary to ensure their own safety, as well as the safety of staff, other inmates, and the public.
- An inmate's initial and ongoing placement in restrictive housing should be regularly reviewed by a multi-disciplinary staff committee, which should include not only the leadership of the institution where the inmate is housed, but also medical and mental health professionals.
- For every inmate in restrictive housing, correctional staff should develop a clear plan for returning the inmate to less restrictive conditions as promptly as possible. This plan should be shared with the inmate, unless doing so would jeopardize the safety of the inmate, staff, other inmates, or the public.
- Correctional systems should establish maximum penalties for each level of offense. These penalties should always include alternatives to disciplinary segregation. The maximum penalties should be graded based on the seriousness of the offense. If used for punishment, restrictive housing should be reserved for offenses involving:
 - Violence
 - Escape, or
 - Posing a threat to institutional safety by encouraging others to engage in such misconduct.

Policy and training should be crafted carefully to ensure that this principle is not interpreted overly broadly to permit the imposition of restrictive housing for infrequent, lower-level misconduct.

- Correctional systems should identify the most common reasons that inmates request protective custody (e.g., prior cooperation with law enforcement, conviction for sex offense, gang affiliation, sex or gender identification) and develop strategies for safely housing these inmates outside traditional restrictive housing units.

We are proud of the progress we have made as a Department, but we also recognize that there are improvements to be made. Many of those improvements are not possible without additional resources. The Department has also partially implemented 15 of the 53 guiding principles.

The guiding principles include several recommendations that would require additional housing resources. Montana State Prison policy states that inmates identified as having a severe mental illness should be diverted from locked housing placement if/when placement is available in the least restrictive environment that would also maintain the safety of the inmate, staff, other inmates, and overall facility operations. However, the Montana State Prison does not currently have adequate housing for the number of inmates with serious mental illness; new construction of a facility or unit would be required in addition to increases in mental health and security staff. Although we strive to meet the standards provided by USDOJ, based upon housing restrictions, the Department is unable to fully conform to the following italicized portions of guiding principles:

- Generally, inmates with serious mental illness (SMI) *should not be placed in restrictive housing.*
- An inmate with SMI *should not be placed in restrictive housing*, unless the inmate presents such an immediate and serious danger that there is no reasonable alternative or a qualified mental health practitioner determines:
 - Placement is not contraindicated;
 - The inmate is not a suicide risk;
 - The inmate does not have active psychotic symptoms;
 - In disciplinary circumstances, that lack of responsibility for the misconduct due to mental illness or mitigating factors related to the mental illness do not contraindicate disciplinary segregation.
- Inmates with SMI who are diverted from *restrictive housing should be placed in a clinically appropriate alternative form of housing*, such as a secure mental health unit or other residential psychology treatment program.
- Inmates in restrictive housing should be screened for signs of SMI. Correctional systems should implement policies, procedures, and practices to ensure that:
 - Prior to an inmate's placement in restrictive housing (or when that is infeasible, as soon as possible and no later than within 24 hours of placement), staff can promptly determine whether the inmate has been previously designated as seriously mentally ill or at risk of developing SMI;
 - Multiple times per day, correctional officers, trained in identifying signs of mental health decompensation, conduct rounds of the restrictive housing unit;
 - At least once per day, medical staff conduct medical rounds of the restrictive housing unit;
 - After 30 days in restrictive housing, and every 30 days thereafter, all inmates in restrictive housing receive a face-to-face psychological review by mental health staff; and

- If at any point an inmate shows signs of psychological deterioration while in restrictive housing, the inmate should be immediately evaluated by mental health staff. *At the conclusion of this review, mental health staff should recommend whether the inmate requires immediate transfer to a medical facility or other treatment center, as well as whether the inmate should receive enhanced mental health services and/or should be referred to a clinically appropriate alternative form of housing.*
- Correctional systems should incorporate developmentally responsive policies and practices for young adults, and as resources allow, *implement modified therapeutic housing communities* with wrap-around programming in order to reduce the number of incidents that result in placement in restrictive housing.

Additionally, the Department has not fully implemented the following guiding principles:

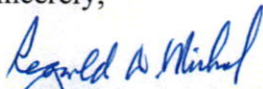
Guiding Principle	Reason	Resources Required
All correctional staff should be regularly trained on restrictive housing policies. Correctional systems should <i>ensure that compliance with restrictive housing policies is reflected in employee-evaluation systems.</i>	Although all correctional staff are trained in restrictive housing policies, the Department does not perform formal staff evaluations. Compliance with policies is reflected in supervisory notes.	None.
Absent a compelling reason, prison inmates should not be released directly from restrictive housing to the community.	The Board of Pardons and Parole considers restrictive housing in release decisions but is not required to deny parole.	This is difficult to attain based on the prison capacity resulting in limited housing and staff.
Correctional staff should complete their disciplinary investigation as expeditiously as possible. <i>Any time that an inmate spends in investigative segregation should be credited towards the term he or she ultimately serves in disciplinary segregation for that offense.</i> Absent compelling circumstances, such as a pending criminal investigation, an inmate should not remain in investigative segregation for a longer period of time than the maximum term of disciplinary segregation permitted for the most serious offense charged.	The inmate may receive credit for time spent in investigative segregation based upon the inmate's attitude and behavior. However, the credit may be revoked with higher level approval based upon poor attitude or behavior.	None.
When an inmate faces a legitimate threat from other inmates, correctional officials should seek alternative housing, <i>by transferring the threatened inmate either to the general population of another institution or to a special-purpose housing unit for inmates who face similar threats, with conditions comparable to those of general</i>	Inmates facing a legitimate threat from other inmates are considered for placement at other facilities but the ability to handle extreme cases is limited due to design and number of facilities available.	Increase housing options, increase high cost services, and redesign of existing units.

<p><i>population</i>. There are two exceptions to this general principle:</p> <p>a. When the inmate poses such extraordinary security risks that even a special purpose housing unit is insufficient to ensure the inmate's safety and the safety of staff, other inmates, and the public. In such cases, the inmate may be housed in more restrictive conditions. The inmate's placement should be regularly reviewed to monitor any medical or mental health deterioration and to determine whether the extraordinary security risks have subsided.</p> <p>b. During a brief investigative period while correctional staff attempt to verify the need for protective custody or while the inmate is awaiting transfer to another facility.</p>		
<p>When transferring an inmate to another institution for protective custody reasons, correctional officials should give consideration to an inmate's release residence, including a desire to be housed close to family.</p>	<p>Prison officials may consider release residences and proximity to family, but Montana's limited number of correctional facilities do not allow for much flexibility.</p>	<p>Increase the number of secure correctional facilities and services available at other facilities.</p>
<p>Correctional systems should seek ways to increase the minimum amount of time that inmates in restrictive housing spend outside their cells and to offer enhanced in-cell opportunities. Out-of-cell time should include opportunities for recreation, education, clinically appropriate treatment therapies, skill-building, and social interaction with staff and other inmates.</p>	<p>Current opportunities for recreation, education, and treatment include cell study, skill building, and day room time as earned. The Department regularly evaluates the availability and feasibility of additional programs.</p>	<p>Increase housing options and redesign of existing units.</p>
<p>Generally, inmates who require protective custody should not be placed in restrictive housing.</p>	<p>Due to limited space and safety concern separate housing cannot be accomplished. Inmates have access to more out - of - cell time when placed in restrictive housing</p>	<p>Increase housing options and redesign of existing units.</p>
<p>Inmates who violate disciplinary rules should be placed in restrictive housing only as necessary, and only after officials have concluded that other available sanctions are insufficient to serve the purposes of punishment.</p>	<p>We are engaging in internal review of the current sanctions grid to see if modifications are required.</p>	<p>None.</p>

The Department has not implemented four guiding principle due to restrictions in data collection and reporting, additional housing, and staffing challenges. Lastly, one guiding principle does not currently apply to Montana secure facilities.

As you can see from our thorough review of established national trends and internal changes within recent years, the Department has adjusted our philosophy and our secure care facility policies to reduce the number of individuals housed in a restricted setting. We are currently implementing justice reform bills with the hope of reducing the custodial population in the future and aiming to use savings towards reducing recidivism and increasing the opportunities for those under our care. In the meantime, we continue to enhance our services and decrease time spent in restricted housing with existing resources and dedicated staff.

Sincerely,



REGINALD D. MICHAEL

Director

RDM:sj

Cc: Rachel Weiss
Julianne Burkhardt
Laura Sherley