



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