

## Elimination of Disciplinary Segregation Frequently Asked Questions 09/01/2021

### Current DS use – what the data show (DOC data for the past year, 9/1/19 to 8/31/20)

- About 2,500 DS sanctions were given during that year.
- 57% of DS sanctions given were for *non-violent* infractions (1,441 of 2,525).
- The average length of time given was 11 days for non-violent infractions and 16 days for violent ones.
- The number of actual DS days people served *after* a disciplinary hearing was very small.
  - o Most people given DS have already been in Ad Seg, and are just given time served and returned to GP.
- It varies a lot by facilities – some facilities are already using DS very sparingly.

### Why DOC will stop using DS

First, we should note that DOC *does* have other ways of responding to violent behavior and protecting staff and incarcerated people:

- **Administrative Segregation:** If an incarcerated individual poses a significant risk to the safety and security of DOC staff, volunteers, or other incarcerated individuals, they can be temporarily removed from GP into Ad Seg. Manage the risk versus being punitive.
- **Maximum Custody:** If we determine that an incarcerated individual continues to pose a significant risk, we can place them in Maximum custody for a longer period of time and work to address their behavior there.

As you may know, DOC has been working for several years to safely reduce the use of all types of segregation or restrictive housing.

- This is because a large amount of research shows that restrictive housing can have a host of negative impacts on people housed there—including harms to their physical and mental health and a higher risk of suicide—and also potentially on staff who work there.

Research also shows that DS is not effective at changing behavior, deterring future infractions, or preventing violence.

- Most studies published on the issue suggest that segregation does not affect subsequent misconduct or institutional violence—which challenges the theory that using DS deters people from future misbehavior. Some studies note that segregation may even increase institutional misconduct.
  - o For example, the National Institute of Justice did a meta-analysis examining 16 different studies and found that using segregation does not significantly affect incarcerated peoples' rates of misconduct or violence.<sup>i</sup>
  - o A study in Ohio examined the effects of restrictive housing on people's future criminal behavior after release from restrictive housing within a prison. He found that it was not significantly related to misconduct. Neither going to restrictive housing in general nor the duration of time spent there had any effect on the prevalence of a subsequent finding of guilt for violent, nonviolent, or drug misconduct.<sup>ii</sup>
- And many DOC staff have probably observed this as well, that DS doesn't work because it doesn't change people's behavior.

DOC wants to use more **meaningful sanctions**, that are more effective at discouraging negative behavior.

- There are plenty of sanctions available for DOC to use (**see disciplinary matrix**)<sup>iii</sup>
- For them to be meaningful and effective, they should be tailored to the incarcerated individual – something that will be meaningful for them.
  - o For example, if a person never goes to the gym or the library, taking away those privileges won't be an effective sanction. But if they go every time they get the chance, taking them away for a few weeks would likely be an effective, meaningful sanction.
  - o Staff can help achieve this by recommending a sanction when they write disciplinary reports, based on what they know about the individual.

Sanctions can and should be effective without causing harm:

- We know that isolation in restrictive housing can be harmful for people, which is one of the reasons we're getting rid of disciplinary segregation.
- We should also limit how much we take away things that are beneficial to incarcerated individuals and will help them be more successful in prison and when they reenter society—especially calls and visits with family.
  - o A great deal of research demonstrates the importance of communication and maintaining family engagement for both incarcerated people and their loved ones.<sup>iv</sup>
  - o Frequent and meaningful family visits can lead to better outcomes for incarcerated people, including fewer infractions while incarcerated and a lower recidivism risk.
  - o For example, Former Washington DOC 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.
- And we shouldn't take things away for so long that people lose hope of getting them back and give up on trying to behave.

Research also shows that providing incentives and positive responses to desired behavior are even more effective at changing behavior than just imposing sanctions for negative behavior.<sup>v</sup>

**It's also important not to use Ad Seg instead of or as "de facto" DS:**

- Remember, Ad Seg is for incarcerated individuals who pose a significant risk to the safety of DOC staff, volunteers, or other incarcerated individuals.
- If people commit non-violent infractions, or even if they commit a more serious infraction but have calmed down and no longer pose a threat, they should not be sent to Ad Seg.
- Looking back at the data – a lot of people, especially those who got DS for nonviolent infractions, probably shouldn't have been placed in Ad Seg either.

<sup>1</sup> B. Steiner and C.M. Cain, "The Relationship Between Inmate Misconduct, Institutional Violence, and Administrative Segregation: A Systematic Review of the Evidence," *In Restrictive Housing in the U.S.: Issues, Challenges, and Future Directions*, edited by Marie Garcia (Washington, DC: U.S. Department of Justice, National Institute of Justice, 2016).

<sup>1</sup> Labrecque, Ryan M. “The Effect of Solitary Confinement on Institutional Misconduct: A Longitudinal Evaluation” PhD diss., University of Cincinnati, 2015.

<sup>1</sup> Available sanctions include loss of any of a number of privileges (ex: fee-based recreation, television/radio, library, dayroom, personal property, hobby craft, commissary), evening or weekend confinement to cell/room, extra work duty hours, denial of attendance at special events, and loss of good conduct time or earned time.

<sup>1</sup> See Vera Institute of Justice, *Why Ask About Family* (New York, Vera Institute of Justice, 2011), <https://perma.cc/42L6-35UX>; Margaret diZerega and Jules Verdone, *Setting an Agenda for Family-Focused Justice Reform* (New York: Vera Institute of Justice, 2011), <https://perma.cc/42YK-VWVX>; and Grant Duwe and Valerie Clark, “Blessed Be the Social Tie That Binds: The Effects of Prison Visitation on Offender Recidivism,” *Criminal Justice Policy Review* 24, no. 3 (2013), 271-279, <https://perma.cc/EQ52-JTCG>.

<sup>1</sup> Amy L. Solomon, et al., *Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes* (Washington, DC: Urban Institute, 2008), 31-32, [https://www.urban.org/research/publication/putting-public-safety-first-13-parole-supervision-strategies-enhance-reentry-outcomes-paper/view/full\\_report](https://www.urban.org/research/publication/putting-public-safety-first-13-parole-supervision-strategies-enhance-reentry-outcomes-paper/view/full_report).

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