



**Justice Center for the  
Protection of People  
with Special Needs**

**KATHY HOCHUL**  
Governor

**DENISE M. MIRANDA**  
Executive Director

March 10, 2023

Dr. Li-Wen Lee Associate  
Commissioner  
Division of Forensic Services  
NYS Office of Mental Health  
44 Holland Avenue  
Albany, NY 12229

Anthony J. Annucci  
Acting Commissioner  
NYS Department of Corrections  
and Community Supervision  
The Harriman State Campus-Building 2  
1220 Washington Avenue  
Albany, NY 12226-2050

**Re: 77010135175 Justice Center**

Dear Dr. Lee and Acting Commissioner Annucci:

Thank you for your responses to the Justice Center for the Protection of People with Special Needs (the Justice Center) review of the programs, treatment and conditions of confinement for incarcerated individuals placed in segregated confinement in the Mohawk Correctional Facility.

Based upon the responses from the Department of Corrections and Community Supervision (DOCCS) and Office of Mental Health (OMH), the Justice Center has amended the report but maintains its determination that the Mohawk Correctional Facility was not in compliance with sections 137 and 138 of Correction Law at the time of the review. This review is now considered final.<sup>1 2</sup>

Please direct any correspondence or concerns related to this review to me at [davin.robinson@justicecenter.ny.gov](mailto:davin.robinson@justicecenter.ny.gov). Thank you for your attention to these important matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Davin Robinson", with a horizontal line underneath.

**Davin Robinson**  
Deputy Director, Outreach, Prevention and Support

<sup>1</sup> DOCCS response dated February 14, 2023

<sup>2</sup> OMH response dated February 23, 2023

Cc: Denise M. Miranda, Esq., Executive Director, Justice Center  
Laura Darman, Esq., Executive Deputy Director, Justice Center  
Nikki O'Meara, Director of Operations, Forensics  
Melissa Finn, Director of Quality and Compliance, Forensics  
Dr. Anne Sullivan, M.D., Commissioner, OMH  
Danielle Dill, Executive Director, CNYPC  
William Vertoske, Deputy Director, Corrections-Based Operations  
Lisa Murphy, Acting Director of Quality Management, OMH  
Maureen Morrison, Director of Suicide Prevention, OMH  
Meaghan Bernstein, Advocacy Letter Coordinator, OMH  
Bryan Hilton, Associate Commissioner, DOCCS

NOTE: All correspondence related to this matter will be available for public inspection under Article 6 of the Public Officers Law. Material which will be required to be kept confidential or which is protected from disclosure under the Public Officers Law or other laws will be redacted prior to such disclosure.



**KATHY HOCHUL**  
Governor

**DENISE M. MIRANDA**  
Executive Director

**Mohawk Correctional Facility  
Humane Alternatives to Long-Term Solitary Confinement (HALT)  
Compliance and Quality of Care Review  
JC#: 77010135175**

On April 12, 2022, the Justice Center for the Protection of People with Special Needs (the Justice Center) conducted a site visit at the Mohawk Correctional Facility to review the programs, treatment and conditions of confinement for incarcerated individuals placed in segregated confinement in that facility. The Justice Center also assessed compliance with the implementation of the HALT law that went into effect on March 31, 2022.<sup>1</sup>

The Justice Center reviewed policies and practices concerning:

- a) Placement of persons in segregated confinement and residential rehabilitation units (RRU);
- b) Placement and treatment of persons meeting the “special population” definition in the HALT legislation;<sup>2</sup>
- c) Length of time spent in segregated confinement or residential rehabilitation units;
- d) Hearings and procedures;
- e) Assessments and rehabilitation plans, procedures and discharge determinations.

Since the Mohawk Correctional facility does not operate a Residential Rehabilitation Unit (RRU), the Justice Center toured the Special Housing Unit (SHU) and the Regional Medical Unit (RMU) and spoke cell side with 19 incarcerated individuals. To complete a thorough evaluation, Justice Center staff requested private interviews and seven incarcerated individuals accepted.

In addition to reviewing Office of Mental Health (OMH) clinical case records, Department of Corrections and Community Supervision (DOCCS) SHU Folders, and DOCCS guidance records, the DOCCS Sign-In Logbook and Unit Activity Logbook, the Justice Center also requested any Exceptional Circumstances documentation for a time-period of six months.<sup>3</sup> The Justice Center’s review found that there were no individuals placed on exceptional circumstances during this review period.

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<sup>1</sup> Correction Law §§137(6)(d)(e) (h), (i), (j), (k), (l), (m), (n), and (o) and §§138 (7), 401

<sup>2</sup> Section 2 of the Correction Law, subdivision 33 defines Special Population as any person twenty-one years of age or younger; fifty-five years or older; with a disability; pregnant, in the first 8 weeks of post-partum recovery or caring for a child in a correctional facility.

<sup>3</sup> Record review period 10/12/2021 to 4/12/2022.

## Justice Center Findings

### Treatment and Conditions:

- 1. Incarcerated individuals prefer to receive their tablet instead of attending programming daily.**

At the time of the Justice Center's site visit, program/tablet time occurred for 3 hours from approximately 8:30 a.m. to 11:30 a.m. Monday to Friday and one hour of recreation daily. During private interviews with incarcerated individuals, only one incarcerated individual reported that they preferred to attend programming.<sup>4</sup> The remaining individuals chose to have access to their tablets. The individuals that were interviewed said that if programming included required programs for release, they would attend more frequently. The programming space for the SHU was located on the block and consisted of a row of desks in the block hallway.

### **Recommendation:**

In order to increase participation in programming, the Justice Center recommends including DOCCS mandated programming, such as ART, ASAT, vocational training, and stress relief/reduction therapies. The individuals interviewed by the Justice Center also stated that they would attend programming on writing, science and art.

### Special Populations

- 2. At the time of the Justice Center's site visit, there were six incarcerated individuals who received and were serving disciplinary sanctions that called for placement in segregated confinement. Due to their medical needs, they were placed in the Walsh Regional Medical Unit.**

During their time in the Walsh RMU, all individuals continued to serve their segregated confinement sanction. Two individuals were mental health service level (MHSL) 6's and housed in the RMU for acute medical concerns.<sup>5</sup>

- Incarcerated individual 2 was housed in the RMU and considered special population due to their age (>55) and physical disability (confined to a wheelchair for mobility).<sup>6</sup> According to documentation provided to the Justice Center, this individual passed away at an outside hospital on April 28, 2022.

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<sup>4</sup> [REDACTED] is hereafter referred to as **incarcerated individual 1**.

<sup>5</sup> [REDACTED], Rafeal Messa (DIN#99A1402)

<sup>6</sup> [REDACTED] is hereafter referred to as **incarcerated individual 2**.

- Incarcerated individual 3, a MHSL 1SV, is diagnosed with [REDACTED].<sup>7</sup> They transferred to the RMU following a December 6, 2021 – January 3, 2022 hospital stay. They are currently serving sanctions after an assault on corrections staff that lead to serious injuries including an officer requiring staples and stitches to their face and head.
- Incarcerated individual 4, a MHSL 3, [REDACTED] and is currently diagnosed with [REDACTED].<sup>8</sup> They transferred to the RMU in October 2021. The individual is currently serving sanctions after breaking apart their wheelchair and swinging the pieces, striking a corrections officer in the head.
- Incarcerated individual 5, a MHSL 3, is diagnosed with [REDACTED].<sup>9</sup> They transferred to the RMU from an outside hospital in March 2021. The individual is currently serving sanctions following an incident in which they assaulted a corrections officer in the RMU.

#### **Request:**

Please provide the Justice Center with an update for all incarcerated individuals, except for individual 2. This update should include housing status, current confinement sanctions, and whether any additional misbehavior reports or tickets have been served.

### **3. At the time of the Justice Center's site visit, four incarcerated individuals in the SHU were on the mental health case load.**

- Incarcerated individual 1, a MHSL 4, is diagnosed with [REDACTED]. They choose not to take medications, have no history of suicidal ideation and are seen regularly by OMH. The individual is serving sanctions following an incident in which they assaulted corrections officers after they were requested to return to their housing area.
- Incarcerated individual 6, a MHSL 2, is diagnosed with [REDACTED].<sup>10</sup> They are considered medication compliant and have managed their mental

<sup>7</sup> [REDACTED] ( [REDACTED] ) is hereafter referred to as **incarcerated individual 3**.

<sup>8</sup> [REDACTED] ( [REDACTED] ) is hereafter referred to as **incarcerated individual 4**.

<sup>9</sup> [REDACTED] ( [REDACTED] ) is hereafter referred to as **incarcerated individual 5**.

<sup>10</sup> [REDACTED] ( [REDACTED] ) is hereafter referred to as **incarcerated individual 6**.

health symptoms in a proactive manner. The individual is serving sanctions for assaulting a corrections officer after refusing a mandatory frisk.

- Incarcerated individual 7, a MHSL 3, is diagnosed with [REDACTED].<sup>11</sup> They are medication compliant and engaged in their school program. The individual had engaged in a fight with two other individuals and during the attempt to gain control, a corrections officer was assaulted.
- Incarcerated individual 8, a MHSL 3, is diagnosed with [REDACTED].<sup>12</sup> According to a March 4, 2022 progress note, the individual was noted to have generalized fear of their environment and struggling emotionally with mild depression and anxiety, however they were working to productively manage their symptoms. They were not prescribed medications at that time. The individual had engaged in the same fight with incarcerated individual 7 in which a corrections officer was assaulted.

### **Recommendation:**

Consider expanding the definition of disability so that people who have been determined by OMH to need ongoing mental health treatment are included in the definition of special populations. Solitary confinement poses serious risks to a person's mental health and people with ongoing mental health needs should be provided with more access to therapeutic programming rather than placement in solitary confinement for any period of time.

### Hearings and procedures

- 4. The Justice Center reviewed disciplinary hearing documentation for all incarcerated individuals and found that the hearings were conducted within the time frames required in the HALT law.**

All individuals committed violations of rules that permit a penalty of segregated confinement, such as sex offense, violent conduct, stalking, harassment, procuring a deadly weapon or other dangerous contraband and causing and attempting physical injury to staff or other inmates. There was no indication based on documentation provided and through private interviews that any legal representation or assistance was requested for any of the hearings.

### Assessments, rehabilitation plans and discharge procedures

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<sup>11</sup> [REDACTED] is hereafter referred to as **incarcerated individual 7**.

<sup>12</sup> [REDACTED] is hereafter referred to as **incarcerated individual 8**.

**5. One incarcerated individual did not receive their DOCCS Suicide Prevention Screening Guidelines forms (3152).**

A six-month review of DOCCS and OMH records often includes records of treatment that an incarcerated individual received at another correctional facility before being transferred to the correctional facility reviewed. The recommendations below do not pertain to the Mohawk CF:

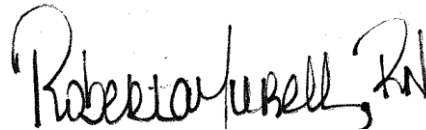
Groveland Correctional Facility

Incarcerated individual 6, a MHSL 2, was placed in the Groveland CF SHU on December 24, 2021. Per the documentation received by the Justice Center, there was no Suicide Prevention Screening Guidelines form completed for their admission.

**Request and Recommendation:**

The Justice Center requests that the Suicide Prevention Screening Guidelines form completed for the above SHU admission be forwarded. If the form does not exist, it is recommended that DOCCS train the security staff at the Groveland in accordance with the HALT Law.

Review conducted by:

A handwritten signature in black ink, reading "Roberta D. Murell, RN". The signature is written in a cursive style with a large, stylized "R" at the beginning. The letters "RN" are written in a more formal, blocky font at the end of the signature.

Roberta D. Murell, RN, Facility Review Specialist

KATHY HOCHUL  
Governor

ANN MARIE T. SULLIVAN, M.D.  
Commissioner

MOIRA TASHJIAN, MPA  
Executive Deputy Commissioner

February 23, 2023

Davin Robinson  
Deputy Director of Outreach, Prevention and Support  
Justice Center for the Protection of People with Special Needs  
161 Delaware Avenue  
Delmar, New York 12054

Dear Ms. Robinson:

We received your letter dated January 27, 2023, in response to the Justice Center's April 12, 2022, site visit of the Mohawk Correctional Facility (CF) Special Housing Unit (SHU) to determine the quality of mental health care provided to incarcerated individuals and determine compliance with the Humane Alternatives to Long-Term Solitary Confinement (HALT) legislation, the Office of Mental Health's (OMH) policies, and the Department of Corrections and Community Supervision's (DOCCS) directives.

Below are the Justice Center's requests from the above-referenced review, and OMH's response.

**Recommendations for Findings #1, 2, 5, and 6: OMH response not indicated, as these are directed to DOCCS or, in the case of Finding #2, are within DOCCS's purview.**

**Recommendation for Finding #3:**

"Consider expanding the definition of disability so that people who have been determined by OMH to need ongoing mental health treatment are included in the definition of special populations. Solitary confinement poses serious risks to a person's mental health and people with ongoing mental health needs should be provided with more access to therapeutic programming rather than placement in solitary confinement for any period of time."

**OMH Response:**

Under HALT, "special population" is defined per section 292(21) of Executive Law under which "disability" is "a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques..." Not all mental health diagnoses are synonymous with an individual experiencing substantial functional disability (Mental Hygiene Law 1.03). This is not only true in the correctional environment, but applies across mental health settings, including the community. In cases where an individual at a correctional facility is experiencing substantial functional disability due to their mental health, they are assigned an S-designation and thus appropriately considered part of the "special population." Individuals on caseload but not S-designated continue to have individual services while in SHU as indicated for their service level. Furthermore, regardless of Mental Health Service Level, or



“special population” designation, all individuals housed in the SHU continue to have access to mental health staff daily during rounds and can request mental health follow-up as needed.

Sincerely,

Li-Wen Lee, M.D.  
Associate Commissioner  
Division of Forensic Services

cc: Danielle Dill, Psy.D., Executive Director, CNYPC  
William Vertoske, Deputy Director, Corrections Based Operations, CNYPC  
File



# Corrections and Community Supervision

KATHY HOCHUL  
Governor

ANTHONY J. ANNUCCI  
Acting Commissioner

February 14, 2023

Davin Robinson  
Deputy Director Outreach, Prevention and Support  
NYS Justice Center for the Protection  
of People with Special Needs  
161 Delaware Avenue  
Delmar, NY 12054

**Re: 77010135175 Justice Center Oversight Action**

Deputy Director Robinson:

This is in response to the New York State Justice Center's review of the compliance with the Humane Alternatives to Long-Term Solitary Confinement (HALT) law and the monitoring of the quality of corrections-based mental health care for incarcerated individuals at Mohawk Correctional Facility Special Housing Unit (SHU) on April 12, 2022.

**Recommendation:**

In order to increase participation in programming, the Justice Center recommends including DOCCS mandated programming, such as, ART, ASAT, vocational training, and stress relief/reduction therapies. The individuals interviewed by the Justice Center also stated that they would attend programming on writing, science and art.

**Response:**

The focus of those that are admitted to SHU is for participants to identify the behavior which led to their disciplinary confinement, develop and practice emotional regulation strategies, review strategies and expectations for their next level of programming (general population, Residential Rehabilitation Unit (RRU), Step Down Program (STP) to General Confinement or Community, or Residential Mental Health Therapeutic Unit (RMHTU), and gain an understanding of holistic health and rehabilitation. This lesson plan was developed to assist in behavioral modification and emotional regulation, so participants are able to complete their mandatory DOCCS programs.

**Request:**

Please provide the Justice Center with an update for all incarcerated individuals, except for individual 2. This update should include housing status, current confinement sanctions, and whether any additional misbehavior reports have been served.

**Response:**

Incarcerated individual three is currently housed in Great Meadow ICP, no current sanctions. Their disciplinary history is attached with any additional misbehavior reports highlighted. Incarcerated individual four is currently housed in Walsh Regional Medial Unit (RMU) with no current confinement sanctions. Their disciplinary history is attached with any additional misbehavior reports. Incarcerated individual five is currently housed at Sullivan CAR with confinement sanctions until May 31, 2023. Their disciplinary history is attached including his recent misbehavior for assault on staff while in the Sullivan SNU program.

**Recommendation:**

Consider expanding the definition of disability so that people who have been determined by OMH to need ongoing mental health treatment are included in the definition of special populations. Solitary confinement poses serious risks to a person's mental health and people with ongoing mental health needs should be provided with more access to therapeutic programming rather than placement in solitary confinement for any period of time.

**Response:**

In regard to your recommendation of expanding who meets special population, DOCCS and OMH are in agreement that individuals who are Seriously Mentally Ill (SMI) are not defined as a Special Population but are specifically excluded from Restricted Housing under Correction Law 137(6)(d)(ii)(C). The determination for "persons with a disability" was made based on a number of pre-existing laws/agreements, as well as based on community standards and in consultation with the Office of Mental Health. Since HALTs implementation, no individuals designated as SMI (1S or 2S) have been placed in a SHU cell. Moreover, since the passage of HALT, confinement in a Special Housing Unit (SHU) includes four hours of out-of-cell time and is vastly different from traditional notions of "solitary confinement"

DOCCS staff are automatically alerted that an incarcerated individual is a Special Population or SMI, thereby avoiding their placement in a Special Housing Unit (SHU).

**Request and Recommendation:**

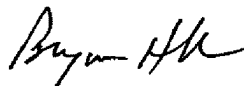
The Justice Center requests that all Suicide Prevention Screening Guidelines forms completed for the above SHU admissions be forwarded. If the forms do not exist, it is recommended that DOCCS train security staff in accordance with HALT Law.

**Response:**

The Suicide Prevention Screening Guideline forms for incarcerated individual #9, #1, and #10 are attached.

Thank you for the opportunity to comment on your report. I look forward to continuing to work productively with the Justice Center to improve the services for our population.

Sincerely,



Bryan Hilton,  
Associate Commissioner

**Attachment(s)**

cc: Alfred Montegari, Superintendent – Mohawk Correctional Facility  
Roberta D. Murell, RN, Facility Review Specialist, Justice Center