



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

**KATHY HOCHUL**  
Governor

**DENISE M. MIRANDA**  
Executive Director

May 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

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 Sullivan Correctional Facility.<sup>1</sup>

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 Sullivan 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.

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 continued cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Davin Robinson", written over a light blue rectangular stamp.

Davin Robinson  
Deputy Director, Office of Outreach, Prevention & Support

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<sup>1</sup> DOCCS response dated March 8, 2023 and OMH response dated March 21, 2023.

Cc: Denise M. Miranda, Esq., Executive Director, Justice Center  
Robert Miller, Acting Executive Deputy Director, Justice Center  
Nikki O'Meara, Director of Operations, Forensics  
Melissa Finn, Director of Quality and Compliance, Forensics  
Angelina LoCascio, Supervising Facility Review Specialist, Forensics  
Dr. Anne Sullivan, M.D., Commissioner, OMH  
Danielle Dill, Executive Director, CNYPC, OMH  
William Vertoske, Deputy Director, Corrections-Based Operations, OMH  
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

**Sullivan Correctional Facility  
Humane Alternatives to Long-Term Solitary Confinement (HALT)  
Final Compliance and Quality of Care Review  
JC#: 77010139404**

On October 6, 2022, the Justice Center for the Protection of People with Special Needs (the Justice Center) conducted a site visit at the Sullivan Correctional Facility (CF) 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 Sullivan Correctional Facility does not operate a Residential Rehabilitation Unit (RRU), the Justice Center toured the Special Housing Unit (SHU) and spoke cell side with all six incarcerated individuals who were on the unit that day. To complete a thorough evaluation, Justice Center staff requested private interviews and one individual accepted.

In addition to reviewing the Office of Mental Health (OMH) clinical case records, Department of Corrections and Community Supervision (DOCCS) SHU folders, 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> April 6, 2022-October 6, 2022

## **Justice Center Findings**

### Treatment and Conditions:

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

The Justice Center was informed by DOCCS that all individuals were in their cells and not attending programming, as they preferred to use their tablets. We were brought to the SHU and conducted cell side interviews with all six individuals. Private interviews were offered to each individual in the SHU but only one individual accepted.

The incarcerated individual interviewed reported they would like more programming that involves vocational training, Aggression Replacement Training (ART), and Alcohol and Substance Abuse Treatment (ASAT).

### **Recommendation:**

In addition, the Justice Center recommends including DOCCS mandated programming, such as ART, ASAT, and vocational training to increase participation in programming.

### Special Populations

- 2. At the time of the Justice Center's site visit, two incarcerated individuals in the SHU were on the mental health caseload.**

- Incarcerated individual 1 is on the mental health caseload as a mental health service level (MHSL) 2.<sup>4</sup> Per their Diagnosis Record, they are diagnosed with [REDACTED]. They were transferred to the SHU following an incident in the yard where the individual assaulted another incarcerated individual. Although the individual does not take psychiatric medications, they meet with mental health staff according to policy to address their mental health concerns and work on their treatment goals. It was documented in their progress notes that they had been in the SHU before and did not have any issues.

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<sup>4</sup> [REDACTED] ( [REDACTED] ) is hereinafter referred to as Incarcerated Individual 1.

- Incarcerated individual 2, a MHSL 6, was transferred to the SHU after making threats of breaking an officer's jaw on October 3, 2022.<sup>5</sup> They were admitted to the Residential Crisis Treatment Program (RCTP) on October 4, 2022 due to psychiatric decompensation, as the individual informed mental health staff that they "can't take it anymore" and that they were going to engage in a hunger strike. Following their transfer to the RCTP, the individual was designated a MHSL 4 Active Screen (AS). On October 5, 2022, they met with the RCTP treatment team and denied any thoughts of self-harm. The individual discussed their concerns regarding the impact of the disciplinary ticket they had received and their release date. They were discharged from the RCTP to the SHU following their assessment and mental health staff met with them upon return to the SHU.

### **Request and Recommendation:**

Segregated confinement poses serious risks to a person's mental health and people with ongoing mental health needs, especially an individual considered a MHSL 2, should be provided with access to therapeutic programming instead of placement in solitary confinement for any time period. The Justice Center recommends that DOCCS and OMH divert all individuals on the mental health caseload to a residential rehabilitation unit or another program that will provide better access to therapeutic programming than they will receive in segregated confinement.

The Justice Center requests an update regarding incarcerated individual 2's admission to the mental health caseload. Please provide their current MHSL, housing location, RCTP transfers and any disciplinary infractions they may have received since October 6, 2022.

### Length of time spent in segregated confinement.

3. **During the site visit, there was one incarcerated individual on the Justice Center's review sample that had spent more than 15 consecutive days in segregated confinement.**

Incarcerated Individual 1 was transferred to the SHU on August 25, 2022 for violent conduct, creating a disturbance, assault on an Inmate, fighting and refusing a direct order. Their disciplinary hearing began on August 29, 2022 and concluded on August 30, 2022. The individual was found guilty of all charges and received 75 days of SHU time, five days of which was pre-hearing

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<sup>5</sup> [REDACTED] is hereinafter referred to as Incarcerated Individual 2.

confinement. At the time of the Justice Center's site visit on October 6, 2022, this person had been in SHU for 38 days.

### **Requests:**

The Justice Center requests an explanation as to why incarcerated individual 1 was not transferred to an RRU in the appropriate timeframe set forth by HALT. In addition, please provide their facility transfer dates and any time cuts that they may have received since their transfer.

### Hearings and procedures

- 4. In accordance with the HALT law, all six incarcerated individuals reviewed committed violations of rules that warranted a penalty of segregated confinement, such as procuring a deadly weapon or other dangerous contraband and causing and attempting to cause physical injury.**
  - 5. There was no indication based on documentation and private interviews that any legal representation or assistance was requested for any of the hearings, therefore it was assumed that they should be completed within seven days.**
- On October 5, 2022, incarcerated individual 3 received a disciplinary ticket for violent conduct, assault, fighting, possessing a weapon, and refusing a direct order after an incident in the yard that involved a cutting-type weapon. <sup>6</sup> Their disciplinary hearing began on October 11, 2022 and concluded on October 18, 2022. They were found guilty of all charges and received 240 days of SHU time. In their response to the draft report issued by the Justice Center, DOCCS replied that the reason individual 3 did not have hearings within seven days is because they requested representation.
  - On October 5, 2022, incarcerated individual 4 received a disciplinary ticket for possession of escape items, an altered item, contraband, tattooing, and tampering with electricity after a cell search found a bent piece of wire shaped like a handcuff key, a tattoo gun and other electrical items. <sup>7</sup> Their disciplinary hearing began on October 11, 2022 and concluded on October 18, 2022. They were found guilty of all charges and received 167 days of SHU time. In their response to the draft report issued by the Justice Center, DOCCS

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<sup>6</sup> [REDACTED] ( [REDACTED] ) is hereinafter referred to as incarcerated individual 3.

<sup>7</sup> [REDACTED] ( [REDACTED] ) is hereinafter referred to as Incarcerated Individual 4.

replied that the reason individual 4 did not have hearings within seven days is because they requested representation.

**Recommendations:**

Please consider documenting whenever an incarcerated individual requests representation at a disciplinary proceeding.



Review conducted by: \_\_\_\_\_

Caitlin Willey, Facility Review Specialist

KATHY HOCHUL  
Governor

ANN MARIE T. SULLIVAN, M.D.  
Commissioner

MOIRA TASHJIAN, MPA  
Executive Deputy Commissioner

March 21, 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 February 22, 2023, in response to the Justice Center's October 6, 2022 site visit of the Sullivan 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.

**Recommendation for Finding #1:**

"A programming schedule was not provided to Justice Center staff upon initial request. The Justice Center requests a programming schedule for individuals in the SHU at the Sullivan CF.

In addition, the Justice Center recommends including DOCCS mandated programming, such as ART, ASAT, and vocational training to increase participation in programming."

**OMH Response:**

OMH defers to DOCCS regarding providing programming in Sullivan's SHU.

**Recommendation for Finding #2:**

"The Justice Center recommends that DOCCS and OMH divert all individuals on the mental health caseload to a residential rehabilitation unit or another program that will provide better access to therapeutic programming than they will receive in segregated confinement.

The Justice Center requests an update regarding incarcerated individual 2's admission to the mental health caseload. Please provide their current MHSL, housing location, RCTP transfers and any disciplinary infractions they may have received since October 6, 2022."

**OMH Response:**

As noted in previous responses, 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" and admitted to a SHU Diversion Program. Individuals on caseload but not S-designated continue to have individual



services while in SHU and RRU as indicated for their service level. Regardless of their MHSL or “special population” designation, all individuals housed in the SHU and RRU continue to have access to mental health staff daily during rounds and can request mental health follow-up as needed.

Incarcerated individual 2’s active screen was closed on 10/13/22 and he was made a Mental Health Service Level (MHSL) 6. He remained in Sullivan’s SHU until 11/17/22, at which time he was transferred to the Upstate Residential Rehabilitation Unit (RRU) where he continues to reside. He has not required any further Residential Crisis Treatment Program (RCTP) admissions. OMH defers to DOCCS regarding information on confinement sanctions and any additional misbehavior reports or tickets.

**Recommendations for Findings #3-6: OMH response not indicated, as these matters are managed by DOCCS.**

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

March 8, 2023

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

**Re: 77010139404 Justice Center**

Dear Director Robinson:

This is in response to the New York State Justice Center's visit at the Sullivan Correctional Facility on October 6, 2022, to review the quality of corrections-based mental health care for incarcerated individuals in SHU in accordance with the HALT Legislation, OMH policies, and DOCCS directives.

**Request and Recommendation:**

A programming schedule was not provided to Justice Center staff upon initial request. The Justice Center requests a programming schedule for individuals in the SHU at the Sullivan CF.

In addition, the Justice Center recommends including DOCCS mandated programming, such as ART, ASAT, and vocational training to increase participation in programming.

**Response**

A programming schedule for individuals in the Special Housing Unit (SHU) at Sullivan Correctional Facility is attached. It is not required in HALT to provide mandatory DOCCS programming in SHU. To provide for mandatory programs that would allow for credit toward merit time or limited credit time, would reward misbehavior. More importantly, such a practice would fail to address the underlying causes of the misbehavior, which resulted in an individual's placement in SHU in the first place.

**Request and Recommendation:**

Segregated confinement poses serious risks to a person's mental health and people with ongoing mental health needs, especially an individual considered a MHSL 2, should be provided with access to therapeutic programming instead of placement in solitary confinement for any time period. The Justice Center recommends that DOCCS and OMH divert all individuals on the mental health caseload to a residential rehabilitation unit or another program that will provide better access to therapeutic programming than they will receive in segregated confinement.

The Justice Center requests an update regarding incarcerated individual 2's admission to the mental health caseload. Please provide their current MHSL, housing location, RCTP transfers and any disciplinary infractions they may have received since October 6, 2022.

### **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 HALT's implementation, no individuals designated as SMI (1S or 2S) have been placed in a SHU cell.

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).

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.

DOCCS will defer to OMH for individual 2's admission to the mental health caseload. Individual 2 is currently placed in Upstate Correctional Facility RRU and their mental health level is 6. No transfers to RCTP were noted.

Since October 6, 2022, individual 2 received 3 disciplinary infractions that are as follow:

On October 28, 2022 at Sullivan for Interference and Harassment

On December 6, 2022, Upstate RRU for Interference, Harassment, Threats, Gangs

On February 16, 2023, at Upstate RRU for violent Conduct, Creating Disturbance, Interference and Direct Order

### **Request and Recommendation:**

The Justice Center requests an explanation as to why incarcerated individual 1 was not transferred to an RRU in the appropriate timeframe set forth by HALT. In addition, please provide their facility transfer dates and any time cuts that they may have received since their transfer.

### **Response**

DOCCS in preparation for implementation of HALT established over 1,000 Residential Rehabilitation Unit beds. DOCCS could not predict the increase in violence with assaults against staff and other incarcerated individuals. There was shortage of RRU beds to meet this increase in violence. DOCCS immediately worked to increase our RRU bed capacity.

Incarcerated individual 1 was transferred to Attica RRU on October 27, 2022, and consequently placed in Attica general on November 8, 2022. They did not receive any time cuts since their transfer.

**Requests and Recommendation:**

Please provide the Justice Center with an explanation as to why incarcerated individual 3 and 4's disciplinary hearings were not completed in the allotted time as defined by HALT.

In addition, the Justice Center requests the dates in which both incarcerated individual 3 and 4 were transferred to another facility and whether they have received any additional misbehavior reports or time cuts.

Finally, please provide the Justice Center with any policies or procedures concerning how incarcerated individuals are notified of their right to request legal representation at disciplinary hearings. If there are written documents provided to incarcerated individuals about obtaining representation at hearings, please provide that as well. If these policies, procedures and advisory documents for incarcerated individuals do not exist, please consider developing them.

**Response**

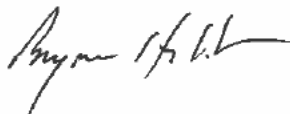
Incarcerated Individual 3's disciplinary hearing began on October 11, 2022, which was timely because of the weekend and holiday. The incarcerated individual requested an employee witness. The hearing ended on October 18, 2022, one day sooner than the 14 days allowed. He was transferred to Upstate Correctional Facility RRU on December 2, 2022, and did not receive any additional misbehavior reports or time cuts.

Incarcerated Individual 4's disciplinary hearing began on October 11, 2022, which was timely because of the weekend and holiday. In this case again the incarcerated individual requested an assistant to get directives and witnesses. The hearing ended on October 18, 2022, one day sooner than the 14 days allowed under HALT. He was transferred to Upstate Correctional Facility RRU on December 20, 2022, and did not receive any additional misbehavior reports or time cuts.

The process of requesting legal representation when an incarcerated individual receives a misbehavior report is outlined in Directive #4932, "Standards of Inmate Behavior", which is 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

cc: Stacy Bennett—Sullivan Correctional Facility  
Caitlin Willey, Facility Review Specialist