



**Auburn Correctional Facility  
Final Humane Alternatives to Long-Term Solitary Confinement (HALT) Act  
Compliance and Quality of Care Review  
JC#: 77010159674**

On April 30, 2024, the Justice Center for the Protection of People with Special Needs (the Justice Center) conducted a site visit at the Auburn 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 Humane Alternatives to Long-Term Solitary Confinement (HALT) Act 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 Act.<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.

The Justice Center toured the Special Housing Unit (SHU), Residential Rehabilitation Unit (RRU) and spoke cell side with 35 incarcerated individuals.<sup>3</sup> To complete a thorough evaluation, Justice Center staff offered private interviews to 20 incarcerated individuals and 8 individuals accepted.<sup>4</sup> The interviews were conducted in a private room at the Auburn CF. The Justice Center also distributed 35 surveys to solicit information about programming, recreation, and tablet use in segregated confinement and two surveys were returned.

In addition to reviewing Office of Mental Health (OMH) clinical case records, DOCCS guidance records, and the DOCCS Sign-In Logbook and Unit Activity Logbook, the Justice Center also requested any Exceptional Circumstances documentation for a

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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> The Justice Center spoke with 16 incarcerated individuals in the SHU, and 19 incarcerated individuals in the RRU.

<sup>4</sup> The Justice Center offered private interviews to 10 incarcerated individuals in the SHU, and 10 incarcerated individuals in the RRU. The Justice Center conducted private interviews with 4 incarcerated individuals in the SHU, and 4 incarcerated individuals in the RRU.

time-period of six months.<sup>5</sup> The Justice Center's review found that there were no individuals placed on exceptional circumstances during this review period. The Justice Center's findings, recommendations, and requests follow below.

## **Justice Center Findings:**

### Treatment and Conditions:

#### **1. 100% of the Informational Reports received from Auburn CF RRU for the review period are for positive behavior.**

The Justice Center received 20 positive informational reports, demonstrating staff's use and engagement of positive reinforcement efforts. The positive reports were issued for actions such as completing individual assignments, demonstrating positive behavior on the unit, attending all sessions, and contributing positively to discussion in therapy and groups. It is evident that the Program Management Team meets on a regular basis for meaningful review of the individuals in the program. The individuals received a choice of incentive from a list provided by DOCCS and time cuts as a result. Of the Justice Center's sample of ten incarcerated individuals in the Auburn RRU, six individuals received time cuts of 7, 14, or 30 -days. In total, during the review period, eight 7-day time cuts, two 14-day time cuts, and one 30-day time cut were awarded.<sup>6</sup>

#### **Recommendation:**

The Justice Center commends DOCCS staff for completing positive informational reports to encourage and support desired behaviors from individuals housed in the Auburn CF. The Justice Center recommends that all DOCCS programs that utilize Informational Reports continue to use them as a tool to encourage positive behavior by offering incentives and to bring attention to negative behavior at the time of the incident to discourage a Misbehavior Report in the future for similar behavior.

#### **2. There were no incarcerated individuals participating in out of cell programming in the SHU.**

At the time of the Justice Center's visit, the Auburn SHU contained 33 cells divided between six linear pods (C through H) along a straight corridor. Pods A and B are used for programming. Pod A contains five cells which are used as a storage space at the rear of the programming area. Placed in front of these cells are five Reduced Security Therapy and Recreation Table (ReSTART) chairs. Pod B is similarly arranged. However, it contains six Reduced Security Therapy and Recreation Table (ReSTART) chairs. There were no incarcerated individuals participating in out of cell programming at the time of the site visit.

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<sup>5</sup> Review period: November 1, 2023, to April 30, 2024.

<sup>6</sup> One Incarcerated Individual was eligible for a time cut but requested not to receive a time cut in hopes of remaining on the unit long enough to receive anticipated dental care.

Per DOCCS staff, SHU programming is scheduled to take place from 8:00 a.m. to 11:00 a.m. daily. Mechanical restraint leg shackles are used for all incarcerated individuals during programming. Outdoor recreation in the SHU occurs daily from 12:30 p.m. to 1:30 p.m. Additionally, incarcerated individuals in the SHU are provided the static tablet from 8:00 a.m. to 12:00 p.m., and the Law Library is available from 8:00 a.m. to 10:00 p.m.

As provided by DOCCS in their response letter, no incarcerated individuals participated in out of cell programming for the month of September 2024.

**3. The Justice Center completed eight private interviews and distributed 35 surveys to solicit information about programming, recreation, and tablet use in segregated confinement and two surveys were returned.**

During private interviews with incarcerated individuals in the SHU, three individuals reported that programming was not offered in the SHU. One individual reported that despite being admitted to the SHU on or about April 25, 2024, they were not given the orientation packet until April 29, 2024. One incarcerated individual reported that they were not aware when programming was offered in the SHU or how to request to attend. Lastly, three incarcerated individuals reported not being aware of incentives being offered in the SHU.

According to the survey responses received, only one individual reported that they were offered programming 4-5 days a week in the morning. They also reported that they had the opportunity to use the tablet daily for 2-4 hours. Also, according to the survey responses received, recreation is offered daily and is a combination of both congregate and individual.

According to RRU program participation records received with the DOCCS response, an analysis of attendance for September 2024 indicates that incarcerated individuals participated in programming each day of the month. The average attendance rate for the month is approximately eight incarcerated individuals, with the highest participation occurring on September 28, 2024, at twelve participants, and the lowest on September 22, 2024, at three participants.

**Recommendations and Request:**

Incarcerated individuals should not have to make a choice between attending programming or using the static tablets. The tablet, recreation, and programming schedules should be reviewed to determine if a staggered schedule could be accommodated to improve incarcerated individual participation in out-of-cell programming.

The Justice Center further recommends that DOCCS staff use incentives in the SHU to increase programming attendance and positive behavior. Additionally, upon an incarcerated individual's admission to the SHU, disciplinary unit staff

should provide the program, recreation, and tablet schedule information. This information should also be accessible on the static tablet.

In addition, DOCCS should explore possibilities for more congregate programming within the SHU to allow for a more favorable environment to encourage group discussion and interaction.

Please provide the Justice Center with an update as to when the Auburn CF will be providing congregate recreation to all programs.

#### Special Populations:

#### **4. One individual's record may have incomplete information about the person's disability.**

Incarcerated individual 1, a mental health service level (MHSL) 2, is currently diagnosed with post-traumatic stress disorder.<sup>7</sup> According to their Pre-Sentence Report, probation staff spoke with the individual's family who reported that the individual was diagnosed with Asperger Syndrome, and probation staff referred the individual to OPWDD, for care management services. A referral to OPWDD services indicates that probation staff believed the individual may have a developmental disability.<sup>8</sup> The individual's OMH Core History also documented that they had a past diagnosis of Asperger Syndrome however, it is not recorded on their diagnosis record.

On April 8, 2024, the individual received a Tier 3 ticket for violent conduct, assault on an inmate, and weapon after they were identified by a peer "in a photo array" for cutting another individual.<sup>9</sup> The weapon was never recovered. It was noted in the hearing packet that the individual was not SHU cell eligible. Upon admission to the RRU, they refused a private interview and denied mental health concerns.

#### **Requests:**

Given the individual's previous diagnosis of Asperger Syndrome, a developmental disability, please provide the Justice Center with a psychological evaluation indicating their IQ score, or any diagnoses of disabilities not included on the diagnosis record. Should such diagnoses exist for the individual, please provide an explanation for why it is not included on their diagnosis record. In addition, please provide the individual's current MHSL, housing status, current confinement sanctions, any additional misbehavior reports or tickets, and the number of times they have transferred to the RCTP, if applicable.

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<sup>7</sup> [REDACTED] (DIN: [REDACTED]) is hereinafter referred to as incarcerated individual 1

<sup>8</sup> To be eligible for OPWDD services an individual must have a qualifying disability, ascertained through the collection of records, and completion of evaluations and assessments to determine if this individual's disabilities meet the requirements by New York State law to receive services.

<sup>9</sup> Incarcerated Individual Misbehavior Report dated April 8, 2024.

**5. At the time of the Justice Center’s visit, there were no incarcerated individuals under the age of 21, over the age of 55, pregnant or with a diagnosed disability in segregated confinement, except for four incarcerated individuals with diagnosed mental illness on the mental health caseload.**

- Incarcerated individual 2, a MHSL 2, is diagnosed with adjustment disorder with mixed anxiety and depressed mood and substance use disorders.<sup>10</sup> They were placed in the SHU on April 29, 2024, after being found in possession of a “shank type weapon.” During their intake SHU/RRU mental health interview, they refused a private interview and noted that they were “good and hoping for some SHU time for a transfer.” At the time of the Justice Center’s site visit, individual 2 requested to meet with mental health staff.
- Incarcerated individual 3, a MHSL 1, has the following diagnoses: post-traumatic stress disorder, schizotypal personality disorder, and phencyclidine use disorder (k2); moderate.<sup>11</sup> They were placed in the SHU on April 19, 2024, after being found in possession of a metal rod weapon sharpened to a point. During their intake SHU/RRU mental health interview, they refused a private interview and noted that they were upset they had recently become a MHSL 1. They denied any mental health concerns.
- Incarcerated individual 4, a MHSL 3, is diagnosed with adjustment disorder with anxiety, cannabis use disorder; severe, and alcohol use disorder, severe.<sup>12</sup> They were placed in the SHU on April 25, 2024, after an incident in the yard that involved a weapon. During their intake SHU/RRU mental health interview, they refused a private interview and noted they denied any mental health concerns. On April 30, 2024, the individual apologized for yelling the day before and that they had no mental health concerns.
- Incarcerated individual 5, a MHSL 4, is diagnosed with post-traumatic stress disorder, alcohol use disorder; severe, opioid use disorder; severe, and cocaine use disorder; moderate.<sup>13</sup> They were placed in the SHU on April 27, 2024 after they struck an officer in the face with a closed fist and wrapped their arms around the officers body to knock them down to the ground. an incident in the yard that involved a weapon. During their intake SHU/RRU mental health interview, they refused a private interview and noted they denied any mental health concerns.

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<sup>10</sup> (DIN ) is hereinafter referred to as incarcerated individual 2

<sup>11</sup> (DIN ) is hereinafter referred to as incarcerated individual 3

<sup>12</sup> (DIN ) is hereinafter referred to as incarcerated individual 4

<sup>13</sup> (DIN ) is hereinafter referred to as incarcerated individual 5

## **Recommendation and Request:**

Segregated confinement poses serious risks to a person's mental health and people with ongoing mental health needs should be provided with access to ongoing therapeutic programming instead of placement in solitary confinement for any length of the time. The Justice Center continues to recommend that all individuals on the mental health caseload be immediately diverted from segregated confinement and placed in a therapeutic milieu, such as an RRU.

Please provide the Justice Center with an update for incarcerated individuals 2 through 5. This update should include their MHSL, housing status, current confinement sanctions, any additional misbehavior reports or tickets, and the number of times the individuals were transferred to the RCTP.

### Length of time spent in segregated confinement:

- 6. All incarcerated individuals on the Justice Center's sample were diverted out of the Auburn CF SHU within the timeframes designated by the HALT act.**

### Hearings and procedures:

- 7. The Justice Center sent a request for records on February 26, 2024, however, were not provided with the requested documentation.**

The Justice Center requested Incarcerated individual 6's Tier 3 Misbehavior Report packet and Unusual Incident packet dated April 10, 2024, which was not provided in the initial records request.<sup>14</sup> DOCCS provided the above requested hearing packet with their November 26, 2024 response which reflects that the individual received a Tier 3 infraction following a cube frisk in which security staff located an altered state razor missing half the blade, identified as a weapon, as well as clothing filled to replicate the shape of a human body, identified as an escape item. The individual was charged with possession of escape items, two charges of altered item, two charges of contraband, and weapon. They were found guilty of all charges and received a sanction of 357 days SHU, 6 months loss of good time, and 500 days loss of recreation, packages, commissary, and phone. According to the DOCCS Tier 3 Confinement Justification Form, the individual was found guilty of "Escaping, attempting to escape or facilitating an escape from a facility or escaping or attempting to escape while under the supervision outside the facility." A disciplinary history indicates that the individual has received only one charge for contraband, and one charge for weapon in the past five, and ten years.

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<sup>14</sup> [REDACTED] (DIN [REDACTED]) is hereinafter referred to as incarcerated individual 6

**Request:**

Incarcerated individual 6's April 10, 2024, Tier 3 hearing packet was provided to the Justice Center for review with the DOCCS response. Following a review, the Justice Center finds the sanctions imposed for incarcerated individual 6 to be excessive, given the individuals disciplinary history. According to the Superintendent's review "The behavior exhibited is unacceptable, the area of the institution in which it was exhibited exacerbates the seriousness of said behavior. Incapacitation is appropriate for the action." The DOCCS hearing process did not prove the individual was attempting an escape therefore the 6 months of good time and 500 days loss of recreation, packages, commissary, and phone should not have been incurred. The Justice Center requests that DOCCS Central Office conduct a review of the hearing packet to ensure the appropriateness of the sanction imposed.

Assessments and rehabilitation plans, procedures, and discharge determinations:

**9. Individual Rehabilitation Plans (IRP) do not appear to have been collaborated with OMH and did not identify specific goals and programs, treatment, and services to be offered from the RRU as per the DOCCS RRU Program Manual<sup>15</sup>.**

Individual Rehabilitation Plan (IRP) should be developed collaboratively by program and mental health staff with the incarcerated individual, upon their admission to an RRU. <sup>16</sup> The RRU should be therapeutic, trauma informed, and aim to address individual treatment and rehabilitation needs and underlying causes of problematic behaviors.

- Incarcerated individual 10, a MHSL 3, had an IRP completed on April 17, 2024, upon their admission to the Auburn RRU. The IRP noted "everything" in the topics that would be beneficial to work on and what the individual needed to improve/change. <sup>17</sup> The three things listed to help make improvements/changes are *Anger Management*, *Follow Rules*, and *Improve Decision Making Skills*. There is no signature to indicate that OMH collaborated with DOCCS and the individual to develop the IRP.
- Incarcerated individual 1, a MHSL 2, had an IRP completed on May 2, 2024, upon their admission to the Auburn RRU. The IRP noted "all of the above" in the topics that would be beneficial to work on and what the individual needed to improve/change. The three things listed to help make improvements/changes are *Dealing with Anger*, *Improve Decision Making*, and *Communication Skills*. There is no signature to indicate that OMH collaborated with DOCCS and the individual to develop the IRP.

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<sup>15</sup> DOCCS Directive #4933D

<sup>16</sup> RRU Directive #4933D

<sup>17</sup> [REDACTED] (DIN [REDACTED]) is hereinafter referred to as incarcerated individual 10

- Incarcerated individual 11, a MHSL 1, had an IRP completed on April 24, 2024, upon their admission to the Auburn RRU.<sup>18</sup> The IRP documented that they thought it would be beneficial to “control my thoughts” and wanted to improve their “outlook.” The three things listed to help make improvements/changes are *Improve Decision Making Skills, Violence Prevention and Change Plan*. The IRP was completed in its entirety however the entire form was crossed out and noted, “declined to participate.” There is no signature to indicate that OMH collaborated with DOCCS and the individual to develop the IRP .
- Incarcerated individual 12, a MHSL 3, had an IRP completed on April 16, 2024. The IRP documented that they thought it would be beneficial to work on “anger” and wanted to improve “all of them.”<sup>19</sup> The two things listed to help make improvements/changes are *Dealing with Anger* and *Decision-Making Skills*. There is no signature to indicate that OMH collaborated with DOCCS and the individual to develop the IRP.
- Incarcerated individual 13, a MHSL 6, had an IRP completed on January 10, 2024.<sup>20</sup> The IRP documented that they thought it would be beneficial to work on “interpersonal skills” and wanted to improve their “outlook.” The three things listed to help make improvements/changes are *Complete Program, Improve Decision Making Skills, and Make Changes*.

### **Recommendations and Requests:**

DOCCS and OMH should work together to develop and monitor each individual’s IRP to address individualized treatment and therapeutic needs. Please provide the Justice Center with the facility’s plan to ensure that DOCCS and OMH staff work with the incarcerated individual to create, monitor, and adjust the IRP as needed.

The IRP should provide individualized, measurable, and attainable goals. Many of the goals in the IRP’s above are broad, unspecific to the individual, and are not measurable. As a result, it is difficult to know when and how to adjust the goals to help the individual address the underlying behaviors that resulted in their disciplinary sanctions. The Justice Center recommends that DOCCS and OMH staff receive ongoing training on developing goals and that IRPs be regularly reviewed by DOCCS and OMH to insure they are individualized and measurable.

*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 findings below do not pertain to the Auburn CF:*

<sup>18</sup> [REDACTED] (DIN [REDACTED]) is hereinafter referred to as incarcerated individual 11

<sup>19</sup> [REDACTED] (DIN [REDACTED]) is hereinafter referred to as incarcerated individual 12

<sup>20</sup> [REDACTED] (DIN [REDACTED]) is hereinafter referred to as incarcerated individual 13



**10. At the Attica CF, incarcerated individual 4 received a Tier 3 ticket on November 27, 2023, for violent conduct, demonstration, creating a disturbance, interference with an employee, refusing direct order, threats, and movement regulations violation.**

Per the records received, the individual, a MHSL 3, was in a group of individuals returning from chow. Per the Misbehavior Report, upon returning to A-Lobby, [REDACTED] [REDACTED] "attempted to go towards an on-going incident with staff and other I/I's." It continues with "responding staff was giving direct orders to all I/I's that were in the group returning from chow to keep moving forward." The individual "refused the direct orders and stood and watched the incident occurring in the lobby." After several direct orders, it is documented that the individual "followed staff direction." The misbehavior report does not include any narrative description of the individual making a threat or engaging in the on-going incident outside of watching it occur. As a result of the incident, they received 300 days of SHU time.

Based on the evidence provided, the actions of the individual during this on-going incident does not meet the HALT law requirements for a Tier 3 infraction. Furthermore, in reviewing the incarcerated individual's disciplinary history, the sanctioned length of SHU time should be considered excessive.

**Recommendations:**

The Justice Center recommends that Misbehavior Report and/or Unusual Incident Reports include a detailed narrative of an incarcerated individual's behavior, engagement, and statements to support ticket infractions and sanctions. The Justice Center further recommends that DOCCS Central Office review the individual's disciplinary packet, including the sanctions received, for the incident occurring on November 27, 2023.

**11. Incarcerated individual 6, who was a MHSL 4 at the time, is not documented as having met with OMH staff following a facility transfer within the designated timeframe.<sup>21</sup>**

On February 8, 2024, the individual transferred from the Upstate CF to the Five Points CF. According to the documentation provided, the individual's February 29, 2024, call out was "canceled by staff." On March 6, 2024, the individual declined to attend their scheduled call out per DOCCS security on their housing block. They did not meet with OMH staff until March 11, 2024, at which time the individual requested closing their OMH case and they were removed from the OMH caseload.

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<sup>21</sup> Per OMH Policy 1.2 for Active Transfers, incarcerated individuals are to be "scheduled to be evaluated within two (2) weeks of transfer into Level 1 and 2 facilities." Incarcerated Individual X should have been seen on or before February 22, 2024, to meet the timeframe within the policy.

**Requests and Recommendation:**

To confirm that incarcerated individuals are adequately evaluated to assess their current mental status, specifically during a facility transfer, time frames must be adhered to, and documentation must be complete and accurate. Please provide the Justice Center with documentation indicating whether the individual met with OMH staff following the facility transfer. If the individual did not meet with OMH staff, please retrain clinical staff on the importance of meeting with individuals within the outlined timeframes following a facility transfer. Please provide documentation of this training if required.

Review conducted by:   
Stephanie Diamond, Facility Review Specialist



January 30, 2025

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 in response to the Justice Center's April 30, 2024 site visit of the Auburn Correctional Facility (CF) Special Housing Unit (SHU) and Residential Rehabilitation Unit (RRU) 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.

OMH responses were not requested or required for the recommendations associated with Findings #1, 3, 7, 8, and 10 as these matters are under the purview of DOCCS. Below are OMH's responses to the pertinent findings.

**Request for Finding #4:**

"Given the individuals previous diagnosis of Asperger Syndrome, a developmental disability, please provide the Justice Center with a psychological evaluation indicating their IQ score, or any diagnoses of disabilities not included on the diagnosis record. Should such diagnoses exist for the individual, please provide an explanation for why it is not included on their diagnosis record. In addition, please provide the individual's current MHSL [Mental Health Service Level], housing status, current confinement sanctions, any additional misbehavior reports or tickets, and the number of times they have transferred to the RCTP [Residential Crisis Treatment Program], if applicable."

**OMH Response:**

Incarcerated individual 1 was made a MHSL 3 on 10/15/24 after a period of stability. He resides in Sing Sing CF's General Population (GP) as of 1/7/25. He has not required RCTP admission while incarcerated. It is important to note that OMH has not received any information verifying that incarcerated individual 1 carried an Autism Spectrum Disorder diagnosis. All references to this diagnosis in the Core History or Pre-Sentence Report (PSR) were received either via self-report or family report. Community records received by OMH do not mention Autism Spectrum Disorder and the PSR suggests that, despite the referral, incarcerated individual 1 did not receive services from the Office for People with Developmental Disabilities (OPWDD). Numerous treatment teams have evaluated incarcerated individual 1 and have determined he does not require additional services or a change in diagnosis. He will continue to be assessed by mental health staff and referred for diagnostic clarification if deemed necessary.

**Recommendation and Request for Finding #5:**

“...The Justice Center continues to recommend that all individuals on the mental health caseload be immediately diverted from segregated confinement and placed in a therapeutic milieu, such as an RRU.

Please provide the Justice Center with an update for incarcerated individuals 2 through 5. This update should include their MHSL, housing status, current confinement sanctions, any additional misbehavior reports or tickets, and the number of times the individuals were transferred to the RCTP.”

**OMH Response:**

OMH continues to work with DOCCS to ensure all incarcerated individuals on the mental health caseload are appropriately housed not only in accordance with their diagnoses and MHSL, but also in accordance with their assessed treatment needs. For those individuals who remain in SHU for 15 days or less, OMH offers mental health callouts per policy and also more frequently if needed. All individuals, regardless of caseload status, are also assessed cellside during regular rounds.

Incarcerated individual 2 remains a MHSL 2. He resides in Five Points CF’s GP as of 8/26/24. He has not required RCTP admission since 2022.

Incarcerated individual 3 remains a MHSL 1. He resides in Clinton CF’s GP as of 6/11/24. He has not required RCTP admission since 2023.

Incarcerated individual 4 remained a MHSL 3 until his release from DOCCS custody on 10/10/24. He released from Coxsackie CF’s GP, where he had resided since 7/18/24. He required two RCTP admissions, from 5/2/24-5/3/24 and 5/4/24-5/7/24, for expressing thoughts of self-harm. When assessed by mental health staff, he informed them he had stated he wanted to harm himself out of frustration about his misbehavior report and conflict with officers; he denied true intent or thoughts of harming himself.

Incarcerated individual 5 was discharged from the mental health caseload on 7/26/24 after a period of stability. He resides in the Clinton CF’s GP as of 5/24/24. He has not required RCTP admission while incarcerated.

**Recommendation and Request for Finding #9:**

“DOCCS and OMH should work together to develop and monitor each individual’s IRP [Individual Rehabilitation Plans] to address individualized treatment and therapeutic needs. Please provide the Justice Center with the facility’s plan to ensure that DOCCS and OMH staff work with the incarcerated individual to create, monitor, and adjust the IRP as needed.

The IRP should provide individualized, measurable, and attainable goals. Many of the goals in the IRP’s above are broad, unspecific to the individual, and are not measurable. As a result, it is difficult to know when and how to adjust the goals to help the individual address the underlying behaviors that resulted in their disciplinary sanctions. The Justice Center recommends that DOCCS and OMH staff receive ongoing training on developing goals and that IRPs be regularly reviewed by DOCCS and OMH to insure they are individualized and measurable.”

**OMH Response:**

At the time of these IRPs, there was not a system in place to ensure OMH was signing each IRP. This has since been rectified and OMH is addressing each IRP weekly at the Program Management Team (PMT) meetings.

**Request and Recommendation for Finding #11:**

“To confirm that incarcerated individuals are adequately evaluated to assess their current mental status, specifically during a facility transfer, time frames must be adhered to, and documentation must be complete and accurate. Please provide the Justice Center with documentation indicating whether the individual met with OMH staff following the facility transfer. If the individual did not meet with OMH staff, please retrain clinical staff on the importance of meeting with individuals within the outlined timeframes following a facility transfer. Please provide documentation of this training if required.”

**OMH Response:**

The callouts noted by the Justice Center were scheduled in accordance with policy. The initial callout upon transfer was scheduled on 2/29/24, two weeks after the transfer. However, the clinician needed to cancel the appointment and documented such in a progress note. While the unit makes every attempt to ensure they have clinician coverage for missed callouts, this is not always possible given other clinicians' caseloads and crisis situations that arise throughout the day. Per CNYPC CBO Active Mental Health Services Policy #1.4 Cancelled/Refused/Missed Callouts, the clinician was required to reschedule the appointment within two weeks of the cancelled appointment. She scheduled the appointment one week after the missed appointment, sooner than required by policy, on 3/6/24 and documented such – as well as that a memo about callouts was provided to the incarcerated individual – in a progress note. The incarcerated individual refused to attend that callout and, in accordance with policy, the clinician met with them three business days later, on 3/11/24.

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



November 26, 2024

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

**Auburn Correctional Facility  
Humane Alternatives to Long-Term Solitary Confinement (HALT)  
Draft Compliance and Quality of Care Review  
JC#: 77010159674**

Dear Deputy Director Robinson:

This is in response to the New York State Justice Center's visit at the Auburn Correctional Facility on April 30, 2024, to review the quality of mental health care provided to incarcerated individuals in the Special Housing Unit (SHU) and Residential Rehabilitation Unit (RRU) in accordance with the HALT Act, OMH policies, and DOCCS directives.

The following is a response to each of the items raised in the Draft Compliance and Quality of Care Review JC#: 77010159674:

**1. Recommendation:**

The Justice Center commends DOCCS staff for completing positive informational reports to encourage and support desired behaviors from individuals housed in the Auburn Correctional Facility. The Justice Center recommends that all DOCCS programs that utilize Informational Reports continue to use them as a tool to encourage positive behavior by offering incentives and to bring attention to negative behavior at the time of the incident to discourage a Misbehavior Report in the future for similar behavior.

**Response:**

Thank you for your acknowledgement of DOCCS staff at Auburn Correctional Facility's RRU and SHU regarding utilizing informational reports and incentives. The informational reports are a communication tool used in RRU and SHU, among other programs. The Department's policy includes a standardized incentive program with the expectation of universal application statewide. Incentives are provided when earned through positive progress and participation. Incentives are awarded to participants exhibiting positive behavior and/or progress toward achieving their Individual Rehabilitation Plan (IRP) goals. The Program Management Team (PMT) conducts meaningful reviews of incarcerated individuals to assess their progress.

Incarcerated individuals should not have to make a choice between attending programming or using the static tablets. The tablet, recreation, and programming schedules should be reviewed to determine if a staggered schedule could be accommodated to improve incarcerated individual participation in out-of-cell programming.

The Justice Center further recommends that DOCCS staff use incentives in the SHU to increase programming attendance and positive behavior. Additionally, upon an incarcerated individual's admission to the SHU, disciplinary unit staff should provide the program, recreation, and tablet schedule information. This information should also be accessible on the static tablet.

In addition, DOCCS should explore possibilities for more congregate programming within the SHU to allow for a more favorable environment to encourage group discussion and interaction.

Please provide the Justice Center with an update as to when the Auburn Correctional Facility will be providing congregate recreation to all programs. Additionally, please forward the attendance for programming in the SHU and RRU for September 2024.

**Response:**

Incarcerated individuals in SHU are offered daily out-of-cell programming by utilizing incentives. Incarcerated individuals are provided with information regarding the schedule, including program, tablet, and recreation schedule. Moving forward, they will be provided the schedule in writing. It is our experience in SHU that most individuals, given their relatively short stay, would rather focus on their hearing. However, the Executive Team at Auburn Correctional Facility will review the schedule to determine if a staggered schedule could be accommodated.

Incarcerated individuals in SHU are offered out-of-cell programming, but if they decline, they are able to have access to a tablet. If an individual refuses programming, it is beneficial to provide them with some form of tool, such as a tablet, to have access to programs and increase connectedness, for example. In addition, providing access to the tablet allows those incarcerated individuals that requested legal representation at their hearings the ability to seek legal representation during normal business hours.

Incarcerated individuals in RRU are also offered daily out-of-cell programming, and in the event, they decline, they do not have access to the tablet during program hours. This is outlined in Directive #4933D, "Residential Rehabilitation Units." The directive states "Tablets will not be accessible during program hours."

Compliance with offering therapeutic programming in RRU and SHU is monitored by members of the Executive Team at the facility level, as well as Central Office staff through routine site visits.

Regarding your recommendation concerning congregate recreation, DOCCS reviews on an ongoing basis each facility's layout to explore space and logistics in an effort to make improvements. Current

improvements consist of capital projects including construction of congregate recreation areas; however, some projects have not yet reached completion status.

The attendance records for RRU for September 2024 are attached. Please note, no incarcerated individuals attended SHU programming for September 2024.

#### **4. Requests:**

Given the individual's previous diagnosis of Asperger Syndrome, a developmental disability, please provide the Justice Center with a psychological evaluation indicating their IQ score, or any diagnoses of disabilities not included on the diagnosis record. Should such diagnoses exist for the individual, please provide an explanation for why it is not included on their diagnosis record. In addition, please provide the individual's current MHSL, housing status, current confinement sanctions, any additional misbehavior reports or tickets, and the number of times they have transferred to the RCTP, if applicable.

#### **Response:**

An assessment of intellectual functioning report for Incarcerated Individual 1 is attached.

DOCCS will defer to OMH on the recommendation pertaining to diagnosis.

Incarcerated Individual 1 is assigned a mental health service level 3 and is currently housed at Fishkill Correctional Facility's Residential Rehabilitation Unit. Since the Justice Center's visit on April 30, 2024, the incarcerated individual received 67 days of confinement sanctions on April 19, 2024, for the Tier 3 incident on April 8, 2024. The incarcerated individual has received one (1) additional Tier 3 misbehavior report and two (2) additional Tier 2 misbehavior reports and one pending Tier 2 misbehavior report. The incarcerated individual currently has confinement sanctions until January 7, 2025. The incarcerated individual did not have any RCTP admissions.

#### **5. Recommendation and Request:**

Segregated confinement poses serious risks to a person's mental health and people with ongoing mental health needs should be provided with access to ongoing therapeutic programming instead of placement in solitary confinement for any length of the time. The Justice Center continues to recommend that all individuals on the mental health caseload be immediately diverted from segregated confinement and placed in a therapeutic milieu, such as an RRU.

Please provide the Justice Center with an update for incarcerated individuals 2 through 5. This update should include their MHSL, housing status, current confinement sanctions, any additional misbehavior reports or tickets, and the number of times the individuals were transferred to the RCTP.

#### **Response:**

DOCCS understands Correction Law Section (2) Subdivision 33 – special populations to mean incarcerated individuals that are twenty-one years of age or younger, fifty-five years of age or older,



have a disability as defined in paragraph (a) of subdivision twenty-one of section 292 of the Executive Law: such as a Serious Mental Illness (SMI), developmental disability, sensorial disability, or physical disabilities.

Furthermore, Senate Bill S4621 was introduced recently to expand the definition of persons with disability for purposes of the definition of special populations. The proposal is to include all individuals on the OMH caseload; however, this bill has not passed yet.

Incarcerated Individual 2 is assigned a Mental Health Service Level 2 and is currently housed at Five Points Correctional Facility's general population. Since the Justice Center's visit on April 30, 2024, the incarcerated individual received one (1) additional Tier 2 misbehavior report. The incarcerated individual has no current confinement sanctions. The incarcerated individual did not have any RCTP admissions.

Incarcerated Individual 3 is assigned a Mental Health Service Level 1 and is currently housed at Clinton Correctional Facility's general population. Since the Justice Center's visit on April 30, 2024, the incarcerated individual received three (3) additional Tier 2 misbehavior reports. The incarcerated individual has no current confinement sanctions. The incarcerated individual did not have any RCTP admissions.

Incarcerated Individual 4 was a Mental Health Service Level 3 prior to release. He was paroled from Coxsackie Correctional Facility's general population on October 10, 2024. Since the Justice Center's visit on April 30, 2024, the incarcerated individual received three (3) additional Tier 2 misbehavior reports. The incarcerated individual did not have confinement sanctions at the time of release. The incarcerated individual was in RCTP twice: from May 2, 2024 to May 3, 2024 and from May 4, 2024 to May 7, 2024.

Incarcerated Individual 5 is assigned a Mental Health Service Level 6 and is currently housed at Clinton Correctional Facility's general population. Since the Justice Center's visit on April 30, 2024, the incarcerated individual has received four (4) additional Tier 2 misbehavior reports. The incarcerated individual has no current confinement sanctions. The incarcerated individual did not have any RCTP admissions.

**6.** All incarcerated individuals on the Justice Center's sample were diverted out of Auburn Correctional Facility SHU within the timeframes designated by the HALT Act.

## **7. Request:**

Please forward the requested information to the Justice Center for review.

## **Response:**

The requested documentation is attached. Please note, Incarcerated Individual 6's misbehavior report dated March 19, 2024, was a Tier 2 rather than a Tier 3.

## **8. Request:**

Please forward completed disciplinary hearing packets incarcerated individuals 2, 4, 5, 7, 8, and 9. In addition, please provide the Justice Center with the dates of transfer, current housing facility, and whether they have received any additional disciplinary tickets.

**Response:**

Incarcerated Individual 2 transferred to Auburn Correctional Facility's Residential Rehabilitation Unit on May 14, 2024, and is currently housed at Five Points Correctional Facility's general population. Since the Justice Center's visit on April 30, 2024, the incarcerated individual received one (1) additional Tier 2 misbehavior report.

Incarcerated Individual 4 transferred to Greene Correctional Facility's Residential Rehabilitation Unit on May 9, 2024, and was paroled from Coxsackie Correctional Facility's general population on October 10, 2024. Since the Justice Center's visit on April 30, 2024, the incarcerated individual received three (3) additional Tier 2 misbehavior reports.

Incarcerated Individual 5 transferred to Upstate Correctional Facility's Residential Rehabilitation Unit on May 9, 2024, and is currently housed at Clinton Correctional Facility's general population. Since the Justice Center's visit on April 30, 2024, the incarcerated individual received four (4) additional Tier 2 misbehavior reports.

Incarcerated Individual 7 transferred to Coxsackie Correctional Facility's Residential Rehabilitation Unit on April 30, 2024, and is currently housed at Coxsackie Correctional Facility's general population. Since the Justice Center's visit on April 30, 2024, the incarcerated individual received six (6) additional Tier 2 misbehavior reports.

Incarcerated Individual 8 transferred to Gouverneur Correctional Facility's Residential Rehabilitation Unit on May 10, 2024, and is currently housed at Fishkill Correctional Facility's Residential Rehabilitation Unit. Since the Justice Center's visit on April 30, 2024, the incarcerated individual received one (1) additional Tier 3 misbehavior report and two (2) additional Tier 2 misbehavior reports.

Incarcerated Individual 9 transferred to Cayuga Correctional Facility's Residential Rehabilitation Unit on May 2, 2024, and currently remains housed there. Since the Justice Center's visit on April 30, 2024, the incarcerated individual received one (1) additional Tier 3 misbehavior report and has one (1) pending additional Tier 2 misbehavior report.

The requested documentation pertaining to disciplinary packets are attached.

**9. Recommendations and Request:**

DOCCS and OMH should work together to develop and monitor each individual's IRP to address individualized treatment and therapeutic needs. Please provide the Justice Center with the facility's plan to ensure that DOCCS and OMH staff work with the incarcerated individual to create, monitor, and adjust the IRP as needed.

The IRP should provide individualized, measurable, and attainable goals. Many of the goals in the IRP's above are broad, unspecific to the individual, and are not measurable. As a result, it is difficult to know when and how to adjust the goals to help the individual address the underlying behaviors that resulted in their disciplinary sanctions. The Justice Center recommends that DOCCS and OMH staff receive ongoing training on developing goals and that IRPs be regularly reviewed by DOCCS and OMH to insure they are individualized and measurable.

**Response:**

DOCCS strives to individualize goal planning and continues to provide RRU staff with specialized training annually and as needed with staffing changes. Quality assurance checks are conducted weekly by the Program Management Team (PMT) to ensure records reflect the individualized and collaborative goals of each participant.

DOCCS continues to believe there are therapeutic benefits to offering mental health programming and support to individuals in SHU and RRU. OMH is not involved in programming in SHU and RRU, and DOCCS continues to engage them in ongoing discussion about their participation. However, OMH does participate in PMT meetings and DOCCS will continue to engage to further collaborate in the development of the IRPs.

**10. Recommendations:**

The Justice Center recommends that Misbehavior Report and/or Unusual Incident Reports include a detailed narrative of an incarcerated individual's behavior, engagement, and statements to support ticket infractions and sanctions. The Justice Center further recommends that DOCCS Central Office review the individual's disciplinary packet, including the sanctions received, for the incident occurring on November 27, 2023.

**Response:**

DOCCS continues to train hearing officers to ensure that disciplinary dispositions are in compliance with the HALT Act. Sanctions are reviewed by the facility Superintendents to determine that they are within the published guidelines. Any sanctions that have departed upwards from the published guidelines are reviewed at the Central Office Level.

DOCCS Central Office conducted a discretionary review for Incarcerated Individual 4 on April 18, 2024, and the confinement sanctions were modified to 131 days which ended on April 22, 2024.

**11. Requests and Recommendation:**

To confirm that incarcerated individuals are adequately evaluated to assess their current mental status, specifically during a facility transfer, time frames must be adhered to, and documentation must be complete and accurate. Please provide the Justice Center with documentation indicating whether the individual met with OMH staff following the facility transfer. If the individual did not meet with OMH staff, please retrain clinical staff on the importance of meeting with individuals within the outlined timeframes following a facility transfer. Please provide documentation of this training if required.

**Response:**

DOCCS will defer to OMH for this request and recommendation.

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,



James Donahue  
Associate Commissioner

**Attachments**

cc: Thomas Napoli, Superintendent - Auburn Correctional Facility  
Stephanie Diamond, Facility Review Specialist, NYS Justice Center