



**Elmira Correctional Facility  
Humane Alternatives to Long-Term Solitary Confinement (HALT) Act  
Final Compliance and Quality of Care Review  
JC#: 77010160815**

On June 4, 2024, the Justice Center for the Protection of People with Special Needs (the Justice Center) conducted a site visit at the Elmira Correctional Facility (CF) to review the programs, treatment, and conditions of confinement for incarcerated individuals placed in the Special Housing Unit and Residential Mental Health Units in that facility. The Justice Center also assessed compliance with the implementation of 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 the Diversion Unit and spoke with 43 incarcerated individuals cell-side.<sup>3</sup> In addition to reviewing the OMH clinical case record and DOCCS guidance record, the Movement Logs and Programming Logs, the Justice Center also requested any Exceptional Circumstances documentation for a time-period of six months.<sup>4</sup> The Justice Center’s review found that there were 5 individuals placed on exceptional circumstances during the Justice Center’s review period for fighting and creating a disturbance.<sup>5</sup>

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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 14 incarcerated individuals in the SHU, 22 individuals in the RRU, and 7 individuals in the Diversion Unit.

<sup>4</sup> Review period from December 4, 2023, to June 4, 2024.

<sup>5</sup> The following incarcerated individuals were placed on EC and reviewed appropriately during the Justice Center’s review period: ██████████ (██████████) placed on May 23, 2024, ██████████ (██████████) placed on April 10, 2024, ██████████ (██████████) placed on May 23, 2024, ██████████ (██████████) placed on May 23, 2024, and ██████████ (██████████) placed on May 28, 2024, June 7, 2024, June 14, 2024 and was removed from exceptional circumstances on June 20, 2024.

To complete a thorough evaluation, Justice Center staff requested private interviews in the SHU, RRU and Diversion and 6 incarcerated individuals accepted.<sup>6</sup> The interviews were conducted in a private room at the Elmira CF. The Justice Center also distributed 43 surveys to solicit information about programming, recreation, and tablet use in segregated confinement and 12 surveys were returned at the time of this report. The Justice Center's findings, recommendations and requests follow below.

## **Justice Center Findings**

### Treatment and Conditions:

#### **1. The Elmira CF SHU did not have any incarcerated individual's participating in out of cell programming at the time of the Justice Center's site visit.**

The SHU was comprised of 18 single occupancy cells and the census was 14 on the day of the site visit. The on-unit programming area consisted of a row of 6 Reduced Security Therapy and Recreation Tables (RESTART chairs) off the door side of the gallery. On the day of the Justice center's site visit, no one was attending programming during programming hours and security reported they rarely have anyone come out to participate in programming.

Security staff reported that program is offered in two modules, from 8:00 a.m. to 11:00 a.m. and from 12:00 p.m. to 3:00 p.m. Individuals who agree to attend programming are placed in leg restraints. According to the printed SHU HALT Programming Schedule they are offered the single program titled "Avoiding Negative Peer Interactions" Monday through Friday.<sup>7</sup> Programming hours on Saturdays were noted as 8:00 a.m. to 11:00 a.m. (Sports Trivia) and from 1:00 p.m. to 2:00 p.m. for recreation. On Sundays, programming is conducted from 8:00 a.m. to 11:00 a.m. (Sports Trivia) only.

According to the SHU program attendance records from May and June 2024, there was only 1 individual in attendance in each two-week period. Static and law library tablets are distributed daily to individuals from 8:00 a.m. to 3:00 p.m. for a group of cells and from 3:00 p.m. to 10:00 p.m. for the other group of cells. Recreation is held daily from 1:00 p.m. to 2:00 p.m. and occurs at the end of the gallery in 20 individual pens, according to the printed program schedule. No one was observed engaging in recreation on the day of the site visit and according to a review of two weeks of the SHU Daily Activity Log, no individuals went to recreation.

DOCCS provided the Justice Center with attendance records and programming schedules for the SHU for November 2024 and there were no participants for programming in SHU for the month of November 2024.<sup>8</sup>

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<sup>6</sup> Two incarcerated individuals in the SHU, one in Diversion, and three in RRU accepted private interviews with Justice Center staff.

<sup>7</sup> See the HALT Programming Schedules for Morning, and Afternoon/Evening dated July 22-28, 2024.

<sup>8</sup> DOCCS response to draft findings letter dated January 16, 2025.

## **Request and Recommendation:**

The Justice Center encourages staff at the Elmira CF SHU to promote out-of-cell programming. The tablet 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.

In addition, DOCCS acknowledged in their response to the Justice Center's report following their October 5, 2022, site visit to the Elmira CF SHU, that they would continue to review participation as well as the efficacy of the program and how to increase attendance through various incentives.<sup>9</sup> With their response, DOCCS provided the programming attendance records for the month of December 2023, six incarcerated individuals attended programming in the SHU, including one individual that attended five times.<sup>10</sup> Please forward any data analysis or reports completed pertaining to the participation in programming at the Elmira CF SHU.

### **2. Structured instructor led programming is offered 5 days a week in the RRU.**

The RRU contained 24 single-occupancy cells set up in linear "tanks" of 6 cells each.<sup>11</sup> There were two programming tanks designated for programming and each tank contained 7 RESTART chairs. Four unrestrained, seated incarcerated individuals were observed engaging in RRU programming with the teacher, white boards and TVs stationed on the other side of the cell bars for the duration of programming. According to the printed HALT Programming Schedule, six-hours of instructor lead RRU programming is offered 5 days a week from 8:00 a.m. to 11:00 a.m. (module 1) then again from 12:00 p.m. to 3:00 p.m. (module 2) with early go-back available in between. The second module consists of daily RRU congregate recreation/exercise.

The RRU attendance records were reviewed for May and June 2024. In May 2024, there were 22 instructor led program days (Monday-Friday) in the RRU, however 13 days had no attendance.<sup>12</sup> On the 9 days with noted attendance, an average of only 3 incarcerated individuals attended.<sup>13</sup> The month of June had 19 programming days (Monday-Friday) where there was 4 days with no attendance.<sup>14</sup> On the 15 days with noted attendance, an average of 5 incarcerated individuals attended.

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<sup>9</sup> DOCCS response dated March 8, 2024, for the review conducted at the Elmira SHU on October 5, 2022.

<sup>10</sup> See the Justice Center's Final Findings Letter for Elmira CF dated March 13, 2024.

<sup>11</sup> Tanks are what DOCCS staff refer to groups of cells within a section of the unit.

<sup>12</sup> There was one cancelled class on May 21, 2024, due to "Security issue (fight in tank)", and one state holiday on Monday, May 27, 2024.

<sup>13</sup> See New York State Corrections and Community Supervision RRU Attendance sheet dated May 21, 2024.

<sup>14</sup> There was one state holiday on June 19, 2024.

RRU recreation occurs in individual recreation pens (approximately 20) and are open on the 3:00 p.m. -11:00 p.m. shift. Individuals must be escorted to the recreation area from their cells. Tablets are distributed to individuals during non-program hours per security staff.

RRU attendance records and the program schedule for November 2024 were forwarded as requested. The month of November 2024 had 19 program days. Upon review, an average of 6 individuals attended daily in the morning program module. There were only 5 days with attendance recorded for the afternoon module and an average of 4 individuals participated.

**Request and recommendation:**

If individuals are consistently refusing to attend out-of-cell programs, DOCCS Central Office should ask security staff in facilities to document the reason the individual is refusing and what they are choosing to do instead, and what staff have done to encourage attending programming.

**3. Congregate recreational activities does not meet the daily 7-hour requirement of out-of-cell congregate programming per the HALT Act on Saturdays and Sundays in the RRU.**

RRU attendance records were received for May and June 2024, however the weekend program attendance sheets were not included. According to the schedule, on Saturday individuals are offered congregate recreation from 8:00 a.m. to 11:00 a.m. and again from 12:30 p.m. to 3:30 p.m. and consisted of “board games, cards, dominoes, music, journaling, sports.” On Sundays specifically, congregate recreation was offered from 8:00 a.m. to 11:00 a.m. only.

RRU attendance records and rotating programming schedules for congregate recreation conducted on the weekends for the month of November 2024 were forwarded by request. RRU weekend HALT Programming occurs on Saturdays and Sundays from 8: a.m. to 11 a.m. and 12:30 p.m. to 3:30 p.m. for congregate recreation.<sup>15</sup>

During the month of November 2024, an average of 7 individuals participated in the morning module and an average of 4 individuals participated in the afternoon modules on Saturdays and Sundays.

**4. The private interviews and survey responses received by the Justice Center did not support that programming was offered daily and very few reported that they attended recreation.**

Out of the 43 surveys provided, the Justice Center received 12 responses. The SHU program had 4 individuals report that they were not offered daily

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<sup>15</sup> The schedule indicated that Congregate Recreation was board games, cards, dominoes, music, journaling, and sports.

programming and 2 individuals stated they must choose between using the tablet or going to recreation because they are offered simultaneously.

According to returned surveys, 5 individuals reported that programming was offered daily in the RRU. It was reported that if RRU programs are cancelled it is because of security concerns or staffing shortages. Only 1 individual reported attending program daily and 2 individuals stated they never attend programming. Individuals indicated in their survey responses that they would prefer programs about mental health healing, re-entry into the community, educational programs about science and tech, business, real estate and stock markets, and sports programs and tournaments. In private interviews, individuals overall stated they do not go to program because of personal safety concerns, and one individual said it was largely because of "inappropriate subject matter".

When questioned about their recreation opportunities, six of the responding individuals in surveys said they never attended recreation, and 2 said they attended 2-3 times per week. In private interviews one individual stated they participated in recreation and the others stated they don't participate because recreation isn't offered or occurs at the same time as static tablets are offered forcing them to choose between recreation and tablet use.

### **Recommendations:**

The Justice Center recommends that DOCCS staff provide meaningful incentives to increase out-of-cell program participation and every effort should be made to provide programming that meets the needs and interests of incarcerated individuals. In addition, please consider piloting community-based and peer-led programs with a focus on a pro-social behavior curriculum would be beneficial, such as responsible parenting classes, relationship workshops, nutrition, emotional regulation skills, and virtual events.

#### **5. The Diversion Unit has no Wi-Fi capability.**

The Diversion Unit is comprised of 14 single occupancy cells and the census on the day of the site visit was 7. There are two programming classrooms in Diversion: Classroom #3 contained 4 RESTART chairs configured in a horseshoe shape facing the door above which a large TV was mounted, and Classroom #4 contained 5 RESTART chairs and was identical to Classroom #3. No one was participating in programming on the day of the site visit. Programming is offered from 8:00 a.m. to 11:00 a.m. and again from 1:00 p.m. to 3:00 p.m. Recreation occurs in the evening from 6:00 p.m. to 7:00 p.m. outside in a congregate yard. Upon review of attendance records from April, May, and June; the daily attendance for programming averaged 4 incarcerated individuals. Per the Justice Center's request, DOCCS provided the attendance records and programming schedules for the Diversion Unit for November 2024 which

indicated there were no participants that attended programming for the entire month.

The Justice Center learned during the site visit that individuals in the Diversion unit were unable to use tablets because there is no Wi-Fi available in the unit. This was confirmed with security personnel in the area, and they reported "It's an issue here," but assured that a work order was submitted and was pending. The individual reported that they use the outdoor bank of phones for their weekly call home and that every day, other individuals in Diversion have access to phones during outside recreation.

### **Requests and Recommendation:**

The Justice Center encourages staff at the Elmira CF SHU to promote out-of-cell programming, especially with the knowledge that individuals don't receive immediate access to the tablets and the opportunity to speak and write to the family in private.

In addition, forward an update on the status of the pending work order to establish Wi-Fi access for tablets in the Diversion Unit at the Elmira CF.

#### **6. There were no completed Exceptional Circumstance forms for three incarcerated individuals.**

According to the Program Management Team (PMT) meeting minutes dated May 23, 2024, three incarcerated individuals were placed on exceptional circumstances on May 21, 2024.<sup>16</sup> The PMT meeting minutes noted that all three individuals were program restricted due to fighting during programming. There were no completed Exceptional Circumstance Forms provided to the Justice Center for the incarcerated individuals. The next PMT meeting minutes completed on May 30, 2024, did not indicate that any of the three incarcerated individuals were still on exceptional circumstances.

#### **Request:**

Please retrain staff on the appropriate completion of Exceptional Circumstances Form #4933A.

#### **7. Nine incarcerated individuals had periodic progress reviews according to the time frames outlined in HALT, and four individuals received time cuts.**

According to documentation received, Program Management Team Case Conferences were held for nine individuals, and 2 of the individuals in the Justice Center's sample received a 7-day time cut, and 2 individuals received a 14-day time cut.

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<sup>16</sup> [REDACTED] (DIN: [REDACTED]), [REDACTED] (DIN: [REDACTED]) and [REDACTED] (DIN: [REDACTED])

## Recommendation:

Time cuts are a desired incentive and should be widely implemented in the RRU to individuals engaging in programming to encourage positive and goal-oriented behavior.

## Special Populations:

### **8. At the time of the Justice Center site visit, there were two individuals on the mental health caseload housed in the SHU.**

- Incarcerated individual 1, a MHSL 3, was admitted to mental health services with a diagnosis of adjustment disorder with mixed anxiety and depressed mood at Green Haven Reception on May 20, 2024.<sup>17</sup> They were admitted to disciplinary housing on June 1, 2024 after receiving a Tier III Misbehavior Report for violent conduct, assault on inmate, fighting, weapon, refusing direct order and creating a disturbance after perpetrating a two-man fight in the mess hall. They were seen for an intake Mental Health Interview on June 3, 2024, and denied any mental health concerns.
- Incarcerated individual 2, a MHSL 2, is diagnosed with post-traumatic stress disorder, and opioid use disorder.<sup>18</sup> They have had 5 disciplinary infractions since January 2004 for gang, violent conduct, fighting and creating a disturbance. According to their OMH clinical record, the individual was admitted to RCTP level of care from December 8, 2023, until December 11, 2023, and expressed on-going symptoms including an irritable mood, anxiety, poor sleep, nightmares, and a loss of appetite to mental health staff. On April 18, 2024, during a Video-Teleconferencing (VTC) call out, the individual reported doing well with no issues. They were transferred to the SHU on May 20, 2024, after assaulting another incarcerated individual. They were seen for an intake Mental Health Interview on May 21, 2024, and a 7-day assessment on May 28, 2024, and denied any mental health concerns.

## Request and recommendation:

Persons on the active mental health caseload have a higher-than-average risk for suicidal ideation and incidence of self-harming behavior when placed in segregated confinement.<sup>19</sup> 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 time. The Justice Center continues to recommend that all individuals on the mental health caseload be immediately

<sup>17</sup> [REDACTED] will hereafter be referred to as **incarcerated individual 1**.

<sup>18</sup> [REDACTED] will hereafter be referred to as **incarcerated individual 2**.

<sup>19</sup> [Journal of the American Academy of Psychiatry and the Law Online](#) Vol. 38, Issue 1 March 2010

diverted from segregated confinement and placed in a therapeutic milieu, such as an RRU or Special Population Diversion Unit, especially if the person is being transferred from the RCTP to the SHU.

In addition, please provide the Justice Center with an update for incarcerated individuals 1 and 2. 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.

Hearings and procedures:

**9. Per the documentation received, the following disciplinary documentation was not forwarded to the Justice Center for review.**

- Incarcerated individual 3's Inmate Disciplinary History indicates they received a Tier III ticket on May 21, 2024.<sup>20</sup> The disciplinary ticket was for violent conduct, assault on inmate, weapon, fighting, direct order and create disturbance.
- Incarcerated individual 4 received a Tier III ticket on May 22, 2024, for demonstration, creating disturbance, interference, direct order and out of place.<sup>21</sup> According to the suicide prevention screening guidelines form, the individual was transferred to the SHU on May 29, 2024.
- Incarcerated individual 5's Inmate Disciplinary History indicates they received a Tier III ticket on May 31, 2024.<sup>22</sup> The ticket was for weapon, altered item and smuggling. A Tier III hearing was held on June 4, 2024, and they received 90 days of SHU Time as a sanction.<sup>23</sup>
- On May 26, 2024, incarcerated individual 6 received a Tier III ticket for violent conduct, fighting, create disturbance and direct order.<sup>24</sup> Their hearing occurred on May 30, 2024, and they received sanctions including 4 days of SHU pre-hearing confinement, 116 days of SHU Time, and a 120-day loss of packages and commissary.<sup>25</sup>

**Request and recommendation:**

If available, please forward the Misbehavior Report packets for the above listed individuals. In the future, please ensure that all Misbehavior Reports, which includes both Tier II and Tier III tickets, are included with the information provided

<sup>20</sup> [REDACTED] will hereafter be referred to as **incarcerated individual 3**.

<sup>21</sup> [REDACTED] will hereafter be referred to as **incarcerated individual 4**.

<sup>22</sup> [REDACTED] will hereafter be referred to as **incarcerated individual 5**.

<sup>23</sup> Disciplinary Incident Summary entry dated May 31, 2024.

<sup>24</sup> [REDACTED] will hereafter be referred to as **incarcerated individual 6**.

<sup>25</sup> Elmira Disciplinary Incident Summary dated August 8, 2024.



to the Justice Center, as this is one of the factors we use to determine compliance with the HALT Act.

**10. According to documentation received by the Justice Center, 25 security staff were up to date on the HALT Tier III Hearing Officer Training.**

Length of time spent in segregated confinement:

**11. The ten incarcerated individuals in our sample in the SHU were there for an average of 9 days and there were no individuals housed there for more than 15 consecutive days.**

Assessments, rehabilitation plans and discharge procedures:

**12. Incarcerated individual 7 was provided a documented mental health clinical contact “in the shower area.”<sup>26</sup>**

According to a seven-day Mental Health Interview completed on May 21, 2024, the incarcerated individual, a MHSL 2, “was seen in shower area of SHU” by mental health staff. The progress note indicated that prior to mental health staff arrival, the individual had been in an altercation with others while in program. During the contact, they “smiled and interacted easily, denying any issues or concerns.”

**Request and Recommendation:**

Please provide an explanation as to why this individual was afforded a clinical call out in the shower area of the RRU. Moving forward, please ensure that all clinicians conduct contacts in appropriate private areas and maintain privacy when circumstances allow, per CBO Policy #1.0.<sup>27</sup>

Review conducted by:   
Roberta D. Murell, RN, Facility Review Specialist

<sup>26</sup> [REDACTED] ([REDACTED]) will hereafter be referred to as **incarcerated individual 7**.

<sup>27</sup> See CBO Policy #1.0 Special Housing Unit/Residential Rehabilitation Unit/Special Population Diversion Services, page 6.



January 8, 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 dated December 16, 2024, in response to the Justice Center's June 4, 2024 site visit of the Elmira Correctional Facility (CF) Special Housing Unit (SHU), Residential Rehabilitation Unit (RRU), and Diversion Unit 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 #1-7, and 9 as these matters are under the purview of DOCCS. Below are OMH's responses to the pertinent findings.

**Request and Recommendation for Finding #8:**

"...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 or Special Population Diversion Unit, especially if the person is being transferred from the RCTP [Residential Crisis Treatment Program] to the SHU.

In addition, please provide the Justice Center with an update for incarcerated individuals 1 and 2. This update should include their MHSL [Mental Health Service Level], 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 1 agreed to be discharged from the mental health caseload on 11/22/24 after a period of stability and successfully meeting his treatment goals. He resides in Green Haven CF's General Population (GP), as of 8/2/24. He has not required RCTP admission while incarcerated.

Incarcerated individual 2 remains a MHSL 2. He resides in Attica CF's GP, as of 11/7/24. He has not required RCTP admission since 2023.

OMH defers to DOCCS regarding current confinement sanctions and any additional misbehavior reports or tickets.

**Request and Recommendation for Finding #12:**

"Please provide an explanation as to why this individual was afforded a clinical call out in the shower area of the RRU. Moving forward, please ensure that all clinicians conduct contacts in appropriate private areas and maintain privacy when circumstances allow, per CBO Policy #1.0."

**OMH Response:**

Incarcerated individual 7 was seen in the shower area because he had just been in a physical altercation with other incarcerated individuals in program and needed to be separated prior to being taken to the infirmary for medical assessment. Additionally, there were no other incarcerated individuals in the area, and the other individuals involved in the altercation had been moved to other areas of the SHU. DOCCS staff were not in the immediate vicinity. He was willing to speak with mental health staff in this setting given the circumstances and because he did not want to wait until he could be seen in the callout area. Staff are aware of the importance of conducting callouts in private; however, they must also consider the circumstances and security constraints when making these decisions.

**Request and Recommendation for Finding #13:**

"Please provide an explanation as to why individuals 8 and 9 did not have timely SHU intake mental health interviews. The Justice Center encourages the Unit Chief at the Elmira CF to perform quality assurance audits to ensure timely intake interviews are conducted while individuals are pending their disciplinary hearings to mitigate risk for suicidal behaviors or activities."

**OMH Response:**

Both individuals were seen on 6/3/24, confirmed by OMH's internal database, and in accordance with policy, but the progress notes were misdated. Corrected notes have been filed and are enclosed with this response.

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



January 16, 2025

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

**Elmira Correctional Facility  
Humane Alternatives to Long-Term Solitary Confinement (HALT) Act  
Draft Compliance and Quality of Care Review  
JC#: 77010160815**

Dear Deputy Director Robinson:

This is in response to the New York State Justice Center's visit at the Elmira Correctional Facility on June 4, 2024, to review the quality of mental health care provided to incarcerated individuals in the Special Housing Unit (SHU) and Residential Mental Health Units 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# 77010160815.

**1. Request and Recommendation:**

The Justice Center encourages staff at the Elmira CF SHU to promote out-of-cell programming. The tablet 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. Please forward the attendance records and programming schedule in the SHU for November 2024.

In addition, DOCCS acknowledged in their response to the Justice Center's report following their October 5, 2022, site visit to the Elmira CF SHU, that they would continue to review participation as well as the efficacy of the program and how to increase attendance through various incentives. With their response, DOCCS provided the programming attendance records for the month of December 2023, six incarcerated individuals attended programming in the SHU, including one individual that attended five times. Please forward any data analysis or reports completed pertaining to the participation in programming at the Elmira CF SHU.

**Response:**

DOCCS staff at Elmira Correctional Facility recognizes the value of daily out of cell therapeutic programming in SHU and have continued engaging incarcerated individuals to participate daily. Our staff continue to review on an ongoing basis the programming and tablet schedule at the facility level and make necessary adjustments to encourage program participation. Out of cell programming is offered daily in SHU from

8:00 a.m. to 11:00 a.m. There were no participants for programming in SHU for the month of November 2024.

Attendance in SHU programming has been sporadic, and it is our experience that most individuals in SHU would rather focus on their hearing during the two weeks they are placed in SHU. We will continue to promote and encourage daily out of cell programming in SHU.

## **2. Request and Recommendation:**

If individuals are consistently refusing to attend out-of-cell programs, DOCCS Central Office should ask security staff in facilities to document the reason the individual is refusing and what they are choosing to do instead, and what staff have done to encourage attending programming. Please forward RRU attendance records and the program schedule for November 2024.

### **Response:**

Both security and civilian staff continue to utilize daily rounds to offer and encourage all individuals to attend out of cell programming per the HALT legislation. Programming is not mandatory, and individuals can decline to attend without providing a reason. Please see attached the RRU attendance records and program schedule for November 2024.

## **3. Request and Recommendation:**

The Justice Center requests clarification regarding what congregate programming is offered on the weekend in the Elmira CF RRU. Please forward the RRU attendance records and rotating programming schedules for congregate recreation conducted on the weekends for the months of November 2024.

### **Response:**

Please see attached the Elmira Correctional Facility RRU attendance records and congregate recreation schedule for weekends for the month November 2024.

## **4. Recommendations:**

The Justice Center recommends that DOCCS staff provide meaningful incentives to increase out-of-cell program participation and every effort should be made to provide programming that meets the needs and interests of incarcerated individuals. In addition, please consider piloting community-based and peer-led programs with a focus on a pro-social behavior curriculum would be beneficial, such as responsible parenting classes, relationship workshops, nutrition, emotional regulation skills, and virtual events.

### **Response:**

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. The Program Management Team (PMT) conducts meaningful reviews of incarcerated individuals to assess their progress routinely. DOCCS utilizes a curriculum that includes a wide variety of psycho educational, trauma informed material that has been developed by our Program Services to address the needs of

incarcerated individuals in these programs. We have used IPA's to present a few sessions via Webex in RRU as a trial which did go well. We may expand that format in the future.

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

The Justice Center encourages staff at the Elmira CF SHU to promote out-of-cell programming, especially with the knowledge that individuals don't receive immediate access to the tablets and the opportunity to speak and write to the family in private. Please provide the Justice Center with the attendance records and programming schedule for the Diversion Unit. In addition, forward an update on the status of the pending work order to establish Wi-Fi access for tablets in the Diversion Unit at the Elmira CF.

### **Response:**

DOCCS staff at Elmira Correctional Facility recognizes the value of therapeutic programming in SHU and continues to encourage incarcerated individuals in SHU in participating in daily out of cell programming. Access to tablet is crucial in increasing connectedness with family and our administration at Elmira continues to prioritize this and avoid any delays.

Out of cell programming is offered in the Diversion Unit from 8:00 a.m. to 11:00 a.m. and from 1:00 p.m. to 3:00 p.m. daily. Please see attached the program attendance records for November 2024 for the Diversion Unit. Regarding the Wi-Fi for tablets in the Diversion Unit, the 1612 work order was submitted by the facility on June 24, 2022, and approved by the Facilities Planning department on September 6, 2022. Construction has since started by Securus to install Wi-Fi in the entire facility. We will update you on the progress and anticipated completion date.

## **6. Request:**

Please retrain staff on the appropriate completion of Exceptional Circumstances Form #4933A.

### **Response:**

The Assistant Deputy Superintendent of Mental Health at Elmira Correctional Facility conducted a refresher training with the RRU staff on the completion of Exceptional Circumstances Form #4933A. Please find attached the RTF records regarding the training.

## **7. Recommendation:**

Time cuts are a desired incentive and should be widely implemented in the RRU to individuals engaging in programming to encourage positive and goal-oriented behavior.

### **Response:**

Time cuts are provided as an incentive when earned through positive progress and participation. Time cuts 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.

## **8. Request and Recommendation:**

Persons on the active mental health caseload have a higher-than-average risk for suicidal ideation and incidence of self-harming behavior when placed in segregated confinement. 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 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 or Special Population Diversion Unit, especially if the person is being transferred from the RCTP to the SHU.

In addition, please provide the Justice Center with an update for incarcerated individuals 1 and 2. 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 to expand the definition of persons with disability for purposes of the definition of special populations. The proposal was to include all individuals on the OMH caseload; however, this bill was recently vetoed by the Governor.

Incarcerated individual 1 is assigned an OMH level 6 and is currently housed in General Population at Green Haven Correctional Facility. Incarcerated individual 1 currently does not have any confinement sanctions. Since the Justice Center's visit on June 4, 2024, Incarcerated individual 1 has had one (1) additional Tier 2 misbehavior report. This individual did not have any RCTP admissions.

Incarcerated individual 2 is assigned an OMH level 2 and is currently housed in General Population at Attica Correctional Facility. Incarcerated individual 2 currently does not have any confinement sanctions. Since the Justice Center's visit on June 4, 2024, Incarcerated individual 2 has had two (2) additional Tier 2 misbehavior reports. This individual did not have any RCTP admissions.

## **9. Request and Recommendation:**

If available, please forward the Misbehavior Report packets for the above listed individuals. In the future, please ensure that all Misbehavior Reports, which includes both Tier II and Tier III tickets, are included with the information provided to the Justice Center, as this is one of the factors we use to determine compliance with the HALT Act.

### **Response:**

DOCCS continues to ensure that all documentation requested by the Justice Center is forwarded in a timely manner. In some instances, incarcerated individuals may transfer to another facility and extra steps may be required to locate the requested documents. DOCCS continues to emphasize to all staff the importance of all Justice Center requests.

Attached, please see the misbehavior reports for Incarcerated Individuals 1 and 2.

**10. According to documentation received by the Justice Center, 25 security staff were up to date on the HALT Tier III Hearing Officer Training.**

**11. The ten incarcerated individuals in our sample in the SHU were there for an average of 9 days and there were no individuals housed there for more than 15 consecutive days.**

**12. Request and Recommendation:**

Please provide an explanation as to why this individual was afforded a clinical call out in the shower area of the RRU. Moving forward, please ensure that all clinicians conduct contacts in appropriate private areas and maintain privacy when circumstances allow, per CBO Policy #1.0.26

**Response:**

DOCCS will defer to OMH on this request.

**13. Request and recommendation:**

Please provide an explanation as to why individuals 8 and 9 did not have timely SHU intake mental health interviews. The Justice Center encourages the Unit Chief at the Elmira CF to perform quality assurance audits to ensure timely intake interviews are conducted while individuals are pending their disciplinary hearings to mitigate risk for suicidal behaviors or activities.

**Response:**

DOCCS will defer to OMH on this request.

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: Kevin McCarthy, Superintendent - Elmira Correctional Facility  
Roberta D. Murell, RN, Facility Review Specialist, NYS Justice Center