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# The Safe Alternatives to Segregation Initiative: Findings and Recommendations for the North Carolina Department of Public Safety

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should mirror regular population privileges, but allow for greater observation and treatment opportunities. These regular population units could allow DPS to efficiently and effectively provide enhanced services and privileges—including expanded programming to improve behavioral and emotional adjustment and more frequent direct contact with mental health staff—than in non-specialized regular population units. These units could also tailor their use of the disciplinary process to this population; staff could receive training on appropriate behavioral expectations and use appropriate swift and certain sanctions, with disciplinary segregation used sparingly, if at all.

**Recommendation G9. For people with residential mental health needs (codes M4 and M5):**

- a. Ensure that every incarcerated person who requires residential mental health treatment, including those who are housed at Maury Correctional Institution, has access to the types of programming offered at the Treatment Mall at Central Prison.** Continue to reinforce with staff at these facilities the importance of treatment and programming. Treatment classes and programs are not privileges, and staff should never restrict attendance at classes as a sanction.
- b. Reexamine the way in which people with both mental health needs requiring residential mental health treatment and greater security needs are housed to ensure social interaction, environmental stimulation, and the provision of therapeutic programming.** Explore ways in which the Treatment Mall can be used for incarcerated people who have been classified to Control in the residential mental health unit. Model it on the TDU's balance of providing treatment and congregate activity. Follow other jurisdictions such as Colorado and Pennsylvania and ensure people with residential mental health needs receive *at a minimum* 10 hours of structured and 10 hours of unstructured out-of-cell time per week.
- c. To address immediate needs, DPS should provide training and written guidance on the importance of waiving the policy on conditions of confinement when appropriate.** Upon recommendation from treatment staff, a facility can waive some of the restrictive conditions of confinement required in Control, in order to allow an incarcerated person who is on Control status in the residential mental health unit to participate in programming and have increased out-of-cell time. During Vera's visit to Maury Correctional Institution, staff there seemed unaware that waiving the restrictions on conditions of confinement in Control housing for incarcerated people on the residential mental health unit was an option. Subsequent conversations with Dr. Junker, however, highlighted that these people are getting additional out-of-cell time.

## H. Youthful Offenders

DPS recently announced that they would no longer use restrictive housing for “youthful offenders,” i.e., “juveniles under the age of 18 who have been adjudicated and committed by a judge to a period of confinement in an adult facility due to a crime of a felonious nature.”<sup>80</sup> Vera applauds this policy change, particularly in light of the research on the deleterious effects of restrictive housing on incarcerated youth. Although there is not as much research on the impacts of segregated housing on youth as there is on adults, the existing studies have found that placing youth in restrictive housing is correlated with significantly higher rates of suicide as well as with post-traumatic stress disorder (PTSD), depression, and future criminal activity.<sup>81</sup> The psychological harm caused by the solitary confinement of young people in juvenile and criminal justice settings can exacerbate preexisting mental illness and increase the likelihood of subsequent drug abuse.<sup>82</sup>

Although DPS now prohibits the placement of youth in restrictive housing, Vera is including our findings from the assessment in this report as a baseline that DPS can use to gauge the impact of its reforms. Vera’s findings come from an analysis of administrative data from 2015 regarding the population aged 17 years and under, a review of DPS policies, and a tour and meeting with staff at Foothills Correctional Institution (Foothills) and North Carolina Correctional Institution for Women (NCCIW). Foothills is the only facility that houses the male 17-and-under population; NCCIW houses the females.

### Findings

**Finding H1. On the snapshot date (July 30, 2015), 32 percent of youth age 17 and under were in restrictive housing.**

**Finding H2. Segregation was used disproportionately for youth, as compared to the rest of the population.** The proportion of incarcerated people held in restrictive housing was by far the highest for the under-18 population. As noted above, 32 percent of this population was in restrictive housing on the snapshot date, compared to 17 percent of the 18- to 25-year-olds and around 8 percent of the 26-and-older population. (See Figure 14 below, on page 70.)

**Finding H3. On the snapshot date, the majority of youthful offenders held in restrictive housing were there in response to rule violations.** Seventy-five percent of youth in restrictive housing were serving disciplinary sentences or being held pending investigation.<sup>83</sup> (See Figure 12.)

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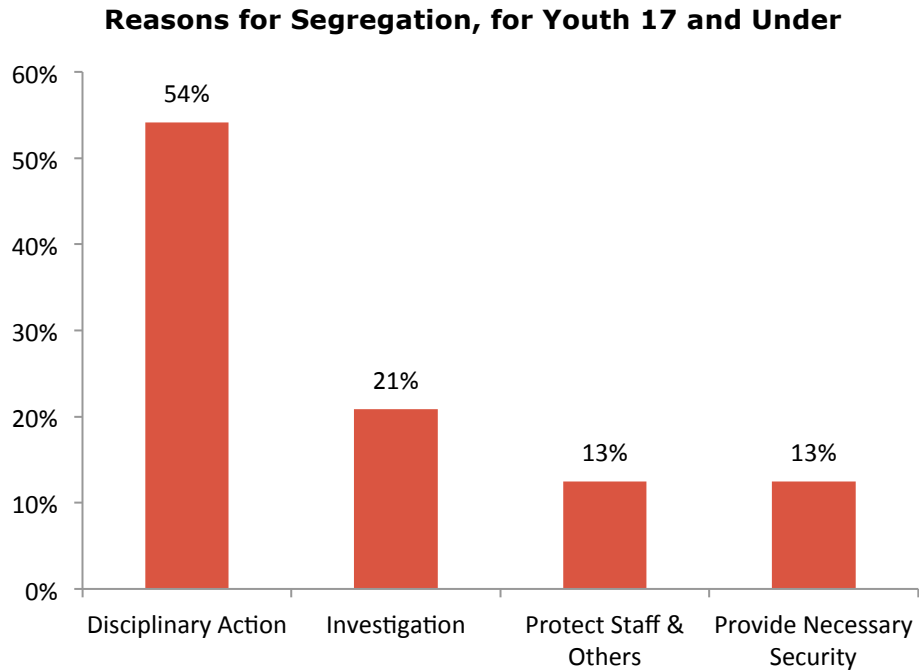
<sup>80</sup> North Carolina Department of Public Safety, “Youthful Offender Program,” 2016.

<sup>81</sup> Tamar R. Birkhead, “Children in Isolation: The Solitary Confinement of Youth” (October 21, 2014), *Wake Forest Law Review* 50, no. 1 (Forthcoming, 2015). UNC Legal Studies Research Paper No. 2512867.

<sup>82</sup> *Ibid.*, p. 13.

<sup>83</sup> Though per policy, investigations are not necessarily in response to rule violations.

Figure 12



**Finding H4. Disobeying an order and profane language accounted for 40 percent of infractions that resulted in a disciplinary segregation sanction.** (See Table 7.)

Table 7

**Top 5 Infractions Leading to Segregation, for Youth 17 and Under<sup>84</sup>**

Infraction	Frequency	Percent
Disobey an Order	130	24.2%
Profane Language	89	16.5%
Fighting	86	16.0%
Involvement with STG	60	11.2%
Lock Tampering	48	8.9%

**Finding H5. During a one-year period, of all misconduct incidents committed by a youth with at least one guilty charge, 99.7 percent resulted in a disciplinary segregation sentence.**<sup>85</sup> This is just as high as for the population overall. (See Table 2 on page 28, above.)

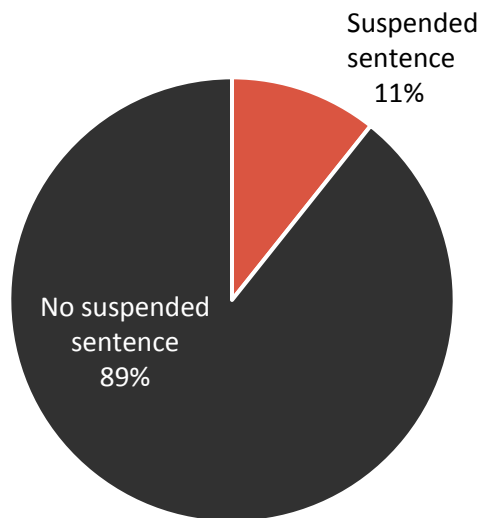
<sup>84</sup> Figures in the table refer to the yearlong period ending June 30, 2015. Security Threat Group (STG) was the term previously used to refer to a Security Risk Group (SRG), or prison gang.

<sup>85</sup> An "incident" is one or more infractions committed at the same time by the same person.

**Finding H6. Segregation sentences were suspended less frequently for youth than for adults.** While Vera’s analysis showed that segregation sanctions were suspended for 33 percent of disciplinary incidents for the total population, they were suspended for only 11 percent of incidents for people under the age of 18. (See Figure 13.)

Figure 13

**Use of Suspended Disciplinary Sentences, for Youthful Offenders**



**Finding H7. Average disciplinary segregation sentence lengths were roughly similar for youthful offenders and adults.** (See Table 8.)

Table 8

**Average Length of Disciplinary Segregation Sentences, by Age**

Age	Number of DS Sentences	Mean Number of Days Sentenced to RHDP	Standard Deviation
17 and younger	338	35.4	15.76
18 to 25	15,709	30.14	15.04
26 and older	31,871	31.47	14.81

**Finding H8. Thirty-four percent of incidents committed by youthful offenders resulted in a loss of phone privileges in addition to disciplinary segregation; 50 percent of incidents resulted in a loss of visits in addition to disciplinary segregation.** Twenty-two percent of incidents resulted in a loss of *both* phone and visitation. As noted above, family engagement can lead to better outcomes for incarcerated people. Staff

reported that it was often difficult for youth to maintain family engagement, and when youth leave Foothills or DPS custody, they are often no longer returning to their family's home. Moreover, the policy regarding phone calls that governs adults in close custody housing also applies to youth: phone calls are only allowed twice a month.

**Finding H9. One-fifth of the incarcerated youth in segregation were in Control housing.** Staff at Foothills reported that with only one regular population unit in which to hold youthful offenders, restrictive housing was sometimes used to keep people apart who could not be held together—codefendants or people with rival SRG affiliations, for example.

**Finding H10. On the snapshot date, over one-third of incarcerated youth in restrictive housing had mental health needs requiring an M3 level of treatment or above.** Juveniles and individuals with mental health needs are the two populations most at risk for psychological harm when in restrictive housing. It is concerning that at Foothills, not only were a high proportion of youth held in restrictive housing, but 38 percent of them (nine young people) required mental health treatment.

**Finding H11. Lack of adequate programming and engaging activities in regular population led to idleness, which is particularly problematic for young people and can lead to behavioral problems and disciplinary infractions.** Staff reported a great need for additional programming and transitional services for youth, such as basic life skills and job skills training. Staff reported that many of the youth came to Foothills from a parent's house, but many will re-enter the community as an independent adult. One staff member suggested that they could begin to address this challenge by expanding the "Job Start" program to the 17-and-under population.

Moreover, staff estimated that a vast majority of youthful offenders have substance abuse issues. Currently, Foothills does not have the capacity to provide the necessary substance abuse treatment, and staff are finding it difficult to identify community volunteers to lead these programs.

Staff reported that the local community college is willing to conduct educational programming in the facility. Foothills, however, is finding it difficult to have enough youth available to take these classes, partly because, as noted above, at any one time a high percentage of youth are in restrictive housing and unable to participate. Additionally, there are not always enough youth interested in taking a class for it to be offered. DPS does not allow youth and those over 18 years of age to take the same classes.

Foothills staff spoke proudly of the education they provide for the youth and of their new school building. Additionally, staff spoke highly of some innovative programming and incentives that they are able to offer to the youth in regular population, such as their music therapy program and the provision of art supplies.

**Finding H12. There is often de facto segregation for females age 17 and under who are incarcerated at NCCIW.** During Vera’s tour of NCCIW, there was only one female under age 18 in DPS custody. To comply with the Prison Rape Elimination Act (PREA), an entire unit was reserved for this one person—including a dining room, dayroom, bathroom, two classrooms, library, two bedrooms, canteen, restrictive housing cell, and outside recreation area. Even within this isolated environment, the lone girl was in disciplinary segregation during Vera’s tour of NCCIW. DPS has since arranged to house a youthful offender from another state at NCCIW, to provide company for this individual.

## **Reforms: The Youthful Offender Program**

DPS’s new Youthful Offender Program goes beyond simply prohibiting putting youth in restrictive housing; it identifies that, “[s]upervision methods used with adults simply do not work with this population, and ... supervision should be based on building positive relationships utilizing specific communication skills and using a positive discipline approach to teach new behaviors and self-control.”<sup>86</sup>

As noted above, restrictive housing will no longer be used for this population. Loss of privileges is now the primary corrective action. If, however, a youth needs to be separated, he may be assigned to Modified Housing “for the least amount of time necessary for the offender to achieve behavioral correction.”<sup>87</sup> The maximum time allowed in Modified Housing is 10 days for a Class A infraction, the most serious infraction level. The new policy dictates that Modified Housing will allow youth to maintain pro-social interaction and will provide access to programs, recreation, education, health care, and religious services that is *equal* to the access given in regular population.<sup>88</sup>

The Youthful Offender Program also details that incentives, such as puzzle books, movies, popcorn, or participation in Field Day, will be “frequently utilized.”<sup>89</sup> Finally, it ensures that staff at Foothills receive additional training specific to crisis intervention with youth, and states that staff should provide youth with both informal reinforcement through positive praise and formal reinforcement through evidence-based cognitive behavioral interventions.

## **Recommendations for the Youthful Offender Program**

These recommendations are meant to build on the progress DPS has already made in creating its new Youthful Offender Program.

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<sup>86</sup> NCDPS, Youthful Offender Program, 2016, p. 2.

<sup>87</sup> *Ibid.*, p. 5.

<sup>88</sup> *Ibid.*, p. 6.

<sup>89</sup> *Ibid.*, p. 8.



**Recommendation H1. Clarify how Modified Housing will be used, if and when it can be used for purposes other than a disciplinary sanction, and how young people are placed there, how long they stay, and how they are able to leave.**

- a. Provide more intensive programming in Modified Housing to more effectively change behavior during the periods youth are housed there.**

**Recommendation H2. Continue to foster ways for regular population to be developmentally appropriate and promote positive behavior, in order to reduce disciplinary infractions.**

- a. Continue to find ways to increase family engagement.** Allow more phone calls and plenty of visits. Video visitation could be used as a supplement to (but not a replacement for) phone calls and visits, with locations throughout the state where families can go to communicate via video.
- b. Increase programming, engaging activities, and mental health treatment, to reduce idleness.** DPS should provide significant levels of programming and activities for young people, including education and programs that develop pro-social problem-solving skills. DPS can ensure adequate participation in education and programming by allowing youth and young adults at Foothills or NCCIW to participate together in certain supervised classes or activities, such as a community college class with a minimum required number of participants, or a program like music therapy that an individual wants to continue even after turning 18. As long as there is adequate, direct adult supervision, DPS would remain compliant with Foothills' current Standard Operating Procedure (SOP) (which requires "direct staff supervision when youthful inmates and adults are together"), DPS policy, and the Prison Rape Elimination Act (PREA).<sup>90</sup> This would allow DPS to offer additional classes to the male youth population (classes which currently might not be offered because there are not enough under-18 individuals to fill them) and could also be extremely impactful for the girls, since there is seldom more than a handful of under-18 girls at NCCIW.
- c. Expand on the incentives for positive behavior that will be offered under the Youthful Offender Program. In particular, consider options that provide greater autonomy as an incentive.** For example, some juvenile justice systems have used incentives involving greater personal liberties, like having alarm clocks, having a later "lights out" time, additional room amenities, increased responsibilities, or certain

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<sup>90</sup> The PREA standard on youthful inmates (115.14) states: "Youthful inmates may participate in congregate and other activities with adult inmates if there is direct supervision at all times." U.S. Department of Justice Final Rule: National Standards to Prevent, Detect, and Respond to Prison Rape Under the Prison Rape Elimination Act (PREA), Standard 115.14, "Youthful inmates."

personal dress options. These types of incentives seem to be very effective and can have the added benefit of teaching youth self-management and personal responsibility.

**d. Provide regular risk and needs assessments to inform appropriate treatment plans for individual young people and to promote rehabilitation.**

The risk and needs of teenagers change over time and they require a behavior plan that is continuously updated to match.<sup>91</sup> Allow the youth's participation in the creation of his or her treatment plan.

**e. Ensure appropriate staff are selected to work with youthful offenders; they should have the necessary motivation, skills, and training to work with this population.** DPS is planning to offer staff trainings specific to crisis intervention with youth. Additionally, DPS should ensure frequent trainings on adolescent development and developmentally appropriate management strategies, for all staff from multiple disciplines. It is important to ensure adequate staffing of social workers, programming staff, and mental health professionals at facilities with youthful offenders.

**Recommendation H3. Ensure that a gender-informed Youthful Offender Program is offered to 17-and-younger females at NCCIW, with a similar prohibition against placement in restrictive housing and a focus on developmentally appropriate policies.** Alternatively, examine what existing policies or laws could be changed in order to allow the under-18 population to be held in the juvenile justice system. This could be particularly helpful to the female youthful offender population since, according to staff as well as Vera's observation, there are never more than a few girls in DPS custody at one time.

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<sup>91</sup> Ian Kysel, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States* (Human Rights Watch/American Civil Liberties Union, 2012).