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## CRIME AND JUSTICE INSTITUTE

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# Reshaping Restrictive Housing at South Dakota State Penitentiary

Crime and Justice Institute at CRJ

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Barbara Pierce Parker, Managing Associate, Crime and Justice Institute  
Michael Kane, Senior Associate, Crime and Justice Institute

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**Crime and Justice Institute (CJI)**

at Community Resources for Justice strives to make criminal and juvenile justice systems more efficient and cost effective, and to promote accountability for outcomes.

We take pride in our ability to improve evidence-based practices in public safety agencies; gain organizational acceptance in difficult work environments; create realistic implementation plans; put these plans into practice; evaluate their effectiveness; and enhance the sustainability of sound corrections policies and practices.

CJI provides nonpartisan policy analysis and practice assessment, capacity- and sustainability-building technical assistance, research and program evaluation, and educational activities throughout the country.

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In 1-year's time the South Dakota State Penitentiary saw its restrictive housing population drop by 18 percent, and its violent incident rate is now at its lowest point—lower than the rate in general population. These and other gains are significant for the State of South Dakota, particularly in light of the national push to reduce the use of restrictive housing, also known as administrative segregation or solitary confinement. This report tells the story of how the South Dakota Department of Corrections reshaped its approach to restrictive housing and is starting to achieve transformative results.

## THE PROBLEM

Across the United States, the use of restrictive housing has come under intense scrutiny by the public, courts, and policymakers. The concerns focus on the potentially damaging effects of segregation on a person's physical and mental health, public safety risks posed by incarcerating people in restrictive housing for extended periods, and the sometimes subjective criteria used by corrections staff to determine the placement, length of stay, and conditions imposed on inmates in restrictive housing.

So far, courts have viewed the use of restrictive housing as constitutional; however, its prolonged use has been questioned. Questions about who is placed into restrictive housing and how; what they do while they are in this setting; how long they stay; and how they get out have been raised by courts and other interested parties. Part of the outcry over the use of segregation is focused on the possible effects imposed by restrictive housing environments on those with serious mental illness, as well as concerns that this level of confinement can cause or exacerbate a predisposition for mental illness. According to some experts, restrictive housing can have a negative impact on an inmate's mental health.<sup>1,2,3,4,5,6</sup> However, there is debate about the rigor and relevance of the research that exists in this area.

Others are concerned about inmates released directly from restrictive housing to the community. With reentry programming becoming increasingly commonplace in prisons, the contrast with inmates being held in 22- to 23-hour lockdown with practically no programming one day and released to the community the next is particularly stark. Again, research in this area is scant, but some studies have shown that releasing inmates directly from a restrictive housing environment may increase recidivism.<sup>7,8</sup>

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*“The national landscape is changing,” said Cabinet Secretary Denny Kaemingk. “We need to be proactive in reforming restrictive housing so that we have safer facilities, fewer high risk releases from segregation, and ultimately safer communities. It’s the right thing to do.”*

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There are also ethical and moral concerns about the practice. Attention from the courts and prisoner rights advocates has been focused on the conditions and practices within these housing units and whether or not they are constitutionally permissible.

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<sup>1</sup> Arrigo, B. A., & Bullock, J. L. (2008). Psychological effects of solitary confinement on prisoners in supermax units: Reviewing what we know and recommending what we should change. *International Journal of Offender Therapy and Comparative Criminology*, 52(6), 622-640.

<sup>2</sup> Grassian, S. (2006). Psychiatric effects of solitary confinement. *Washington University Journal of Law & Policy*, 22: 325-383.

<sup>3</sup> Haney, C. (2003). Mental health issues in long-term solitary and “supermax” confinement. *Crime & Delinquency*, 49(1): 124-156.

<sup>4</sup> Kupers, T. A. (2008). What to do with the survivors? Coping with the long-term effects of isolated confinement. *Criminal Justice and Behavior*, 35(8): 1005-1016.

<sup>5</sup> Lovell, D. (2008). Patterns of disturbed behavior in a supermax population. *Criminal Justice and Behavior*, 35: 985-1004.

<sup>6</sup> Roberts, J. V., & Gebotys, R. J. (2001). Prisoners of isolation: Research on the effects of administrative segregation. *Canadian Journal of Criminology*, 43(1): 85-97.

<sup>7</sup> Lovell, D., Johnson, L. C., & Cain, K. C. (2007). Recidivism of supermax prisoners in Washington State. *Crime and Delinquency*, 53(4): 633-656.

<sup>8</sup> Mears, D. P., & Bales, W. D. (2009). Supermax incarceration and recidivism. *Criminology*, 47(4): 1131-1166.

Although many questions and concerns about the practice come from outside the corrections field, it is corrections leaders taking the lead on the issue. And they are doing so with little guidance in terms of research on what works and evidence-based practices. What research there is mostly seeks to determine the effects of restrictive housing rather than to suggest better alternatives. Additionally, many departments want to change how they use restrictive housing but may not be well positioned to manage the process—given the time a significant policy and practice change requires and the lack of additional resources for taking on major reform.

As a result of the growing attention on restrictive housing and his own concerns about impacts on incarcerated people and institutional and public safety, the Cabinet Secretary for the Department of Corrections Denny Kaemingk determined that changes to the department's policies and practices were needed. Secretary Kaemingk wanted to build on the state's previous efforts to increase public safety. In 2012, South Dakota, with technical assistance from the Crime and Justice Institute (CJI) and the Pew Charitable Trusts' Public Safety Performance Project, joined the Justice Reinvestment Initiative, a program that provides assistance to help states increase public safety, hold individuals convicted of criminal offenses accountable, and reduce corrections costs. This effort culminated in the passage of the Public Safety Improvement Act in February 2013. Secretary Kaemingk sought to reach similar goals within the state penitentiary's segregation units, with a focus on nonpunitive restrictive housing—what the department used to call administrative segregation. In late 2013, the nonpunitive restrictive housing population at the South Dakota State Penitentiary (SDSP) consistently exceeded 100, the practice of releasing people directly from segregation to the community continued, and staffing was a constant challenge. With the nonpunitive restrictive housing population growing, the Secretary's greatest concerns were institutional safety and the potential risks of releasing people directly from restrictive housing into the community.

## THE APPROACH

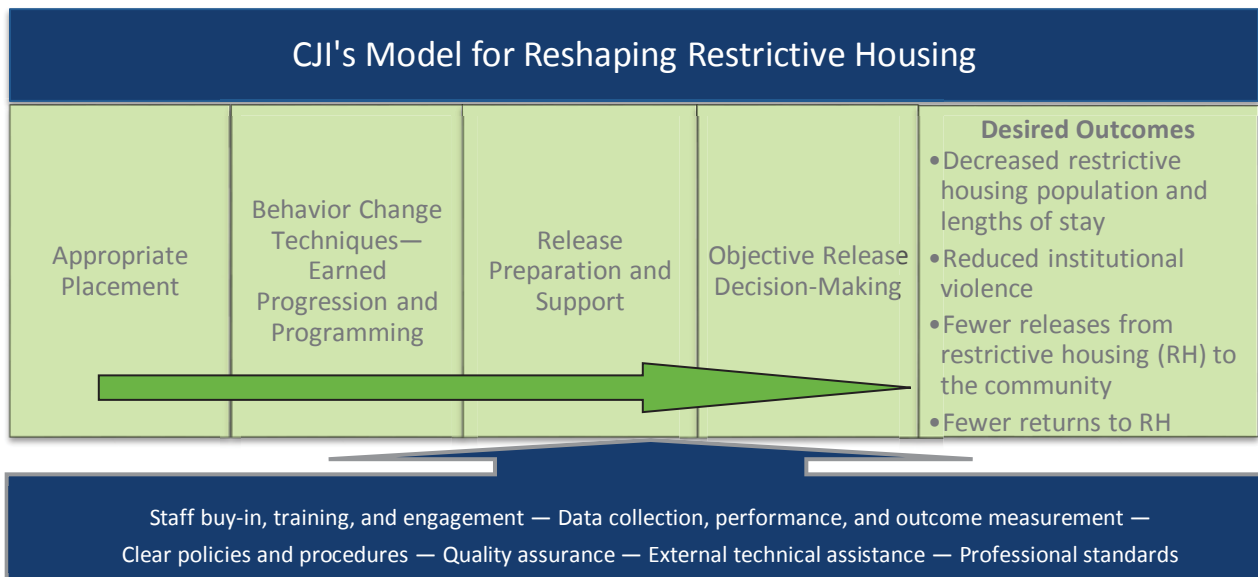
While the issue is receiving greater attention than ever before, corrections professionals have understood for years that restrictive housing is overused. They also understand that it may have a damaging impact on inmates and staff, with a concomitant weakening of public safety when people in restrictive housing cannot prepare appropriately for their return to the community. So, why has there been so little change? The reasons are many—the absence of clear and proven alternatives, lack of funding, difficulty managing a more acutely mentally ill population, limited physical space, and lack of resources for training staff to manage difficult situations and populations, to name a few.

With institutional and public safety at the forefront, the leadership in South Dakota decided in 2013 to overhaul the use of nonpunitive restrictive housing. Together, the South Dakota Department of Corrections (SD DOC) and the Crime and Justice Institute (CJI), with funding from the U.S. Department of Justice, Bureau of Justice Assistance, set out to apply CJI’s model for reshaping restrictive housing and identify promising practices and better ways to achieve both institutional and public safety.

### Crime and Justice Institute’s Model for Reshaping Restrictive Housing

The graphic below depicts CJI’s approach to reforming restrictive housing practices, and it guided the work with SDSP. At its most basic level, the model ensures that—

- appropriate placements are made into restrictive housing using a fair and objective process;
- activities and interactions during inmates’ restrictive housing placement are geared towards behavior change;
- inmates are prepared for their transition to general population; and
- the process used to retain or release an individual from restrictive housing is fair, objective, and based on behavioral indicators.



The desired outcomes, which are specific to each jurisdiction, are to reduce the number of people in restrictive housing and their lengths of stay, to decrease institutional violence, to curtail releases from restrictive housing directly to the community, and to reduce returns to restrictive housing from the general prison population.

Lastly, experience and what we know about implementation indicate that this type of change is not possible without multiple types of administrative support, staff training, procedures for tracking progress and outcomes, outside guidance in the form of technical assistance, and consideration of professional standards and review of promising practices.

### Applying the Model at the South Dakota State Penitentiary

SDSP is located in Sioux Falls and consists of three facilities:

- The 904-bed Main Penitentiary that houses male inmates classified as high-medium, as well as a Special Housing Unit for disciplinary segregation.
- A 245-bed minimum security and work release facility known as the Sioux Falls Community Work Center; and
- Jameson Annex (649 beds), which includes the penitentiary's Admissions and Orientation Unit, housing for high maximum security inmates, nonpunitive and punitive restrictive housing, and two sections for people with varying degrees of mental illness.

The focus of this work was the segregated populations within Jameson Annex, specifically those in nonpunitive restrictive housing.

As with any reform effort, this one began with identification of the issues. In December 2013, CJI conducted a comprehensive assessment of the department's policies and SDSP's nonpunitive restrictive housing practices. The assessment findings revealed issues similar to those found in many other jurisdictions:

- The criteria and process for entry into nonpunitive restrictive housing, and exit from that setting, were less objective than they could be.
- There was little to no focus on behavior modification, and few programming opportunities available.
- Allowable property was comparable to general population and not an earned privilege for positive behavior.
- There was no reintegration program for inmates returning to general population or other preparation for release to the community.
- No specialized training was provided for those working in restrictive housing, and properly staffing the unit was a challenge.
- No regular reporting and review of restrictive housing data was taking place.

After the assessment, a steering committee was formed to guide the design of a new program to address the assessment findings. This work culminated in a 5-month pilot of the new restrictive



housing program beginning in September 2014. The pilot began with the initial movement of a select group of 19 people into level 4 and implementation of the programmatic components for that level. Ultimately, the pilot served 37 participants, many of whom earned their way to the transition unit (level 5) during that time. By the end of January 2015, SDSP had assigned each inmate to a level, and begun full rollout of the restrictive housing program.

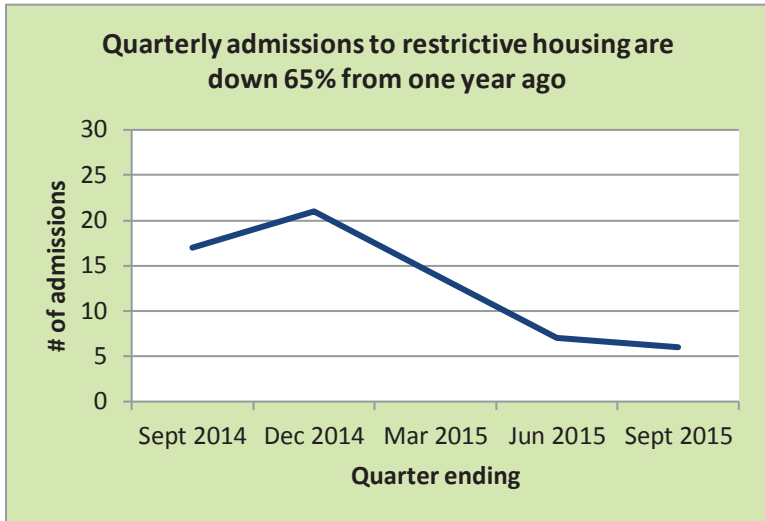
Below is a brief summary of the results 1 year after the pilot began, followed by a detailed description of SDSP's restrictive housing program and an explanation of how SD DOC and CJ structured implementation to ensure the greatest chance of success.

## RESULTS – ONE YEAR IN

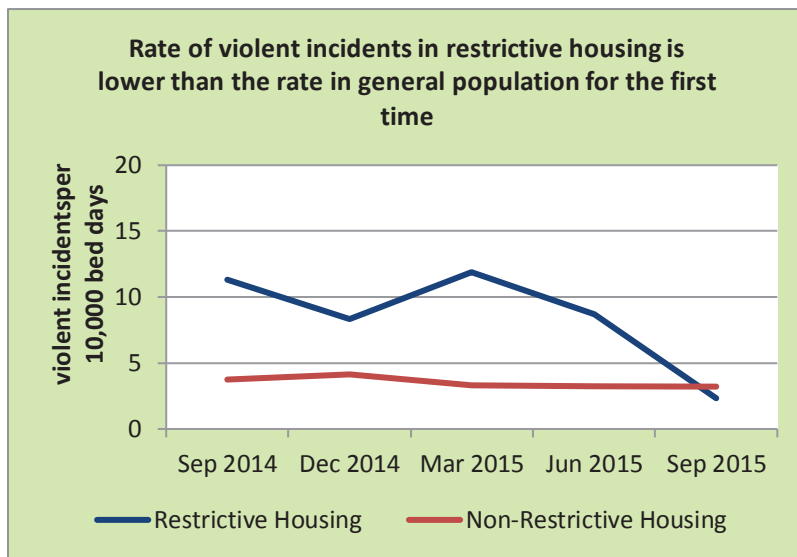
Following the assessment, SD DOC and CJJ designed and began to implement a new restrictive housing program. As a result, the restrictive housing population decreased 18 percent from 103 people in September 2014 when the restrictive housing pilot began to 85 a year later. This was driven by a 65 percent drop in the number of quarterly admissions over the course of the year.

**SDSP’s restrictive housing dropped 18% in one year and the environment is safer.**

In addition, the rate of violent incidents in restrictive housing is on the decline and, at the end of September 2015, was lower than the rate in SDSP’s general population. Releases from restrictive housing directly to the community are also down. The department’s goal is to have no releases from restrictive housing to the street. In the year ending June 30, 2015 the average number of releases to the community per quarter was three. In the quarter ending September 30, 2015, there was just one such release.



Visiting the restrictive housing units in the Jameson Annex now, it is difficult to imagine what it



was like before the reforms were put in place. Minor disruptions by inmates still occur but have decreased dramatically. Staff work in teams, know their roles, and regularly track inmate compliance with the rules. Inmates have regular status review hearings, are aware of how they are progressing through the program, and receive evidence-based cognitive behavioral programming. Inmates in the upper levels of the program

walk unrestrained and unescorted from their cells to the recreation enclosures and lock the doors behind them. In a year’s time, not one participant has violated the rules of this privilege. In the

transition unit, inmates leave restrictive housing and prepare for return to general population. They participate in congregate activities unrestrained, such as meals, programming, and recreation in the gymnasium and outside. Each day, there is 2 hours and 45 minutes of out-of-cell time, but, depending on the day and unit schedule, they may spend up to 6 ½ hours out of their cells.

There is also evidence that the early success of the program is having an impact beyond SDSP. In December 2015, the South Dakota Board of Pardons and Parole granted parole to someone who had only recently graduated from the restrictive housing program. Another participant was granted parole contingent upon his completion of program requirements. Secretary Kaemingk notes, "I was on the Parole Board for nine years and chaired the board for four of those years. I don't remember any instances of parole granted to offenders in or right out of segregation. This is extraordinary."

## THE SOLUTION

After the comprehensive assessment, CJI convened a steering committee to set the agenda for the redesign of nonpunitive restrictive housing at SDSP using the assessment recommendations as a guide. The steering committee included members of SD DOC's administration, penitentiary leadership, and a cross-section of staff, as well as representatives of the Department of Social Services (DSS). DSS provides behavioral health services to SD DOC facilities and is an integral partner in the restrictive housing environment.

Members of the steering committee were assigned to lead small teams in the development of proposals to improve restrictive housing practices. These teams focused on topics such as eligibility criteria, the level system (a structured program of incentives to move progressively to less restrictive settings), and monitoring inmate behavior. A subset of the steering committee also proposed a mission, a vision, and values to guide the reforms (see sidebar). This step was essential to setting the tone for the reforms and helping staff understand the direction the department was headed.

### Appropriate Placement

SD DOC's former administrative segregation policy included criteria for placement that were marked by phrasing that could be open to different interpretations (e.g., "history of misuse of a less restrictive custody," "established pattern of ...") and were not tied directly to violent and dangerous behaviors (e.g., "reasonable belief that ..."). With the goals of focusing restrictive housing eligibility on those exhibiting violent and dangerous behavior and operating with greater objectivity and fairness, the new nonpunitive restrictive housing policy identified specific behaviors for which an inmate could be referred to restrictive housing and ensured that a rigorous review process accompanied the placement decision.

### SD DOC Restrictive Housing Mission, Vision, and Values

#### Mission

To provide safe and secure facilities by successfully managing our offenders in restrictive housing with an incentive-based step program and cognitive behavioral programming. Empowering staff through continuous professional development and engagement to effectively supervise our most disruptive offenders.

#### Vision

To become a national leader in the successful management and reintegration of disruptive offenders through the use of evidence-based practices.

#### Values

Safety and Security  
Professionalism  
Accountability  
Cooperation  
Integrity

### *Eligibility Criteria*

The revised restrictive housing policy now describes specific behaviors that drive eligibility, as follows:

- Assaulted, attempted to cause serious physical harm or death, or compelled or coerced by force or threat of serious physical harm or death another person to engage in any sexual act or sexual abuse, or compelled or coerced another person by force or threat of serious physical harm or death to perform an act or violate any rule;
- Led, organized, or incited a disturbance or riot resulting in the taking of a hostage, significant property damage, physical harm, or loss of life;
- Possessed, conspired, or attempted to introduce dangerous contraband;
- Is an identified security threat group member and committed designated major rule infractions, or is in a leadership position of a security threat group and has coerced another inmate to commit any acts or behaviors eligible for placement in restrictive housing;
- Escaped or attempted escape;
- Exposed others to the risk of a blood-borne pathogen;
- Inflicted or threatened serious harm upon DOC staff;
- Set a fire resulting in serious physical harm, risk of serious physical harm, or causing extensive damage to state property;
- On more than one occasion, compelled or coerced staff to engage in conduct prohibited by SD DOC policy; or
- Committed a crime of exceptional violence or notoriety proximate to incarceration.

### *Process for Placement*

To ensure that the decision to place an inmate in nonpunitive restrictive housing<sup>9</sup> is based on an objective, informed review, SD DOC uses the following process:

1. Correctional staff submit a referral and supporting documents for individuals they believe exhibit behavior warranting placement in restrictive housing, to be reviewed and approved (or denied) by an associate warden or administrator of equal rank.
2. A multidisciplinary staffing is held to review relevant details of the inmate's mental health, programmatic needs, behavior history, security risk level, and discharge date.
3. The restrictive housing board, consisting of a supervisory correctional officer and two unit managers, conducts a review and provides a recommendation to the warden regarding placement.
4. The warden approves or denies the board's recommendation.

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<sup>9</sup> This policy does not preclude an individual from being temporarily housed in short-term restrictive housing for safety reasons or investigative purposes.

## Behavior Change Techniques – Earned Progression and Programming

Restrictive housing should be geared towards improving behavior to increase both institutional and public safety. However, it has historically been focused on incapacitation, which is not an effective way to modify behavior. The new program at SDSP focuses every day of a participant's stay in restrictive housing on positive behavior leading toward sustainable change. This is accomplished through a system whereby participants earn privileges and make progress by demonstrating positive behaviors and participating in programming.

Many nonpunitive restrictive housing settings across the country house people for indefinite periods and do not provide a clear set of expectations or a clear path towards release from these environments. Given the modern understanding of behavioral science, it is not reasonable to expect meaningful behavior change under these ambiguous conditions. SDSP's program addresses this issue head on and sets specific timeframes, articulates privileges that can be earned and lost, establishes program participation expectations, identifies behaviors that are expected on a daily basis, and includes regular reviews of individual progress.

### *Earned Progression*

The states that are leading restrictive housing reform have put into place phase or level programs designed to reward positive behavior and discourage negative behavior and step people down to less restrictive settings.

**Level System.** The core of South Dakota's nonpunitive restrictive housing program is its level system. There are five levels, with level 1 being the most restrictive and level 5 being the least restrictive. Within each level is a set of privileges earned by following institutional and program rules and participating in programming. Although the full program includes five levels, participants enter the program at level 2, allowing SDSP to regress inmates for a short time (no more than 15 days) in an environment with few privileges, if their behavior is unacceptable. To date, SDSP has made no placements in level 1. The final level serves as a transition unit. This transition unit is part of the restrictive program; however, given the privileges, out-of-cell time, and freedom of movement afforded to this population, it is more akin to general population and does not meet the definition proposed by the American Correctional Association for restrictive housing.

Regression among levels is uncommon. Generally, if an individual in restrictive housing commits an offense that meets the restrictive housing placement criteria, he may be considered for regression (if he is serving the beginning part of his time on that level) or may be required to restart his level (if he is toward the end of his time on a level). To date, the only time this has occurred is with an assault on staff. Responses to other violations are considered on a case-by-case basis; low level major rule violators may serve their disciplinary time and return to the level they were on when the violation occurred.

Levels 1 through 4 are located in SDSP's restrictive housing area, while level 5—the transition unit—is located in a general population area of the facility. Locating this unit in a general

population part of the facility sends a message that those who are able to achieve this level through demonstrated positive behavior are making progress moving toward general population. It also allows the participants to be exposed to other staff and reoriented to general population operations.

In addition to the increased privileges and property allowed in the transition unit, those on level 5 eat and have out-of-cell time in the dayroom. They also recreate in small groups in the gymnasium and outside. When travelling off the unit, these inmates walk with a staff escort but without restraints. Depending on the day of the week and unit schedule, they may be out of their cells up to 6 ½ hours; however, each individual is out-of-cell at least 2 hours and 45 minutes every day.

The program design anticipates minimum lengths of time individuals need to stay in each level; however, exceptions are made when a person's release from custody is scheduled to occur during his time in restrictive housing. In keeping with the goal of reducing the number of releases from restrictive housing to the community, the policy allows staff to create amended case plans so a program participant can accelerate his progression and earn his way back to general population prior to release from custody.

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*“Our new restrictive housing program has really changed inmate behavior. We used to place inmates in administrative segregation for indefinite periods. There were a lot of things we should have done differently then. There was no accountability. They wouldn't follow the rules, they would misbehave. Things have changed. Now inmates are held accountable from day one. They know the expectations and exactly what they need to do to move to each level and get back to general population. There's a different mindset and it shows on the units.”*

*~ Troy Ponto, Associate Warden, SDSP*

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SDSP's level system is shown in table 1. It is designed to be 300 days in duration with participants entering at level 2, progressing through to level 4, and then moving into a transition unit for an additional 120 days. To provide context for the program length, prior to the implementation of the new program, typically an assault on a staff person would result in a 5-year restrictive housing stay without rehabilitative opportunities or chance for earlier release.

Table 1: SDSP Level System for Nonpunitive Restrictive Housing and the Transition Unit

	NONPUNITIVE RESTRICTIVE HOUSING				TRANSITION UNIT
	Level 1	Level 2 - Entry Level	Level 3	Level 4	
<b>Programming Expectations</b>	None	Video programming and self-directed activities	Thinking for Good	Moral Reconation Therapy (start program)	Moral Reconation Therapy (finish program)
<b>Behavioral Expectations</b>		~ 50% compliant with behavior log	~ 75% compliant with behavior log	~ 90% compliant with behavior log	Compliant with general population rules
<b>Duration</b>	15 days maximum	90 days minimum	90 days minimum	120 days minimum	120 days minimum
<b>Location</b>	Unit A (section 3)	Unit A (section 3)	Unit A (section 4)	Unit A (section 5)	Unit D (section 6)
<b>Recreation and Phone</b>	3 days per week in recreation enclosure	5 days per week in recreation enclosure	7 days per week in recreation enclosure	7 days per week in recreation enclosure with unrestrained movement to/from rec and shower	7 days per week rotating between dayroom and gym/outdoor yard
<b>Meals</b>	In-cell	In-cell	In-cell	In-cell	Dayroom
<b>Commissary</b>	Hygiene, mail items only	\$10 weekly limit	\$15 weekly limit	\$20 weekly limit	\$30 weekly limit
<b>Visits</b>	None	1 noncontact visit per week, maximum of 3 visitors	2 noncontact visits per week, maximum of 3 visitors	2 noncontact visits per week per visitor	2 noncontact visits per week per visitor (with potential for contact visits)
<b>Television</b>	No TV in cell (TVs in section)	No TV in cell (TVs in section)	1 state issued TV per cell	1 state issued TV per cell	1 personal TV per inmate
<b>Out-of-Cell Restraints</b>	Handcuffs behind the back on unit  Full-restraints off unit	Handcuffs behind the back on unit  Full-restraints off unit	Handcuffs behind the back on unit  Full-restraints off unit	Unrestrained movement to recreation enclosure and shower  Handcuffed in the front of unit	No restraints
<b>Work Assignments</b>	None	None	None	Rotating non-paid work assignments in unit	Rotating non-paid work assignments in unit



**Daily Behavior Tracking.** With behavior as a primary driver of progression through the restrictive housing program, it is important to identify expected behaviors and regularly document them. To accomplish this, SDSP correctional officers identified a set of expectations for individuals in restrictive housing and created a Daily Behavior Log<sup>10</sup> to track compliance with the behaviors on each shift. Behaviors tracked include leaving windows, doors, and lights uncovered; keeping cell walls clear; beds made during the day; standing for count; proper use of the call button in the cell; and respectful behavior.

The logs hang outside of each participant’s cell. Officers credit the logs with immediate improvements in the restrictive housing units and significant changes to the types of interactions staff have with people in restrictive housing. The log provides immediate reinforcement for prosocial behavior and opens up dialogue about why someone struggled on a prior shift or a previous day, and how to address needs or concerns that may arise.

### **Programming**

Along with daily behavior, participating in programming drives a person’s progression through the level system. South Dakota’s restrictive housing program was designed to include both in-cell and out-of-cell programming. SDSP has established a set of programming expectations at each level to provide another indicator of positive change while in restrictive housing. The goals are twofold—to provide prosocial, in-cell, and to provide behavior change opportunities and skills training out-of-cell through an evidence-based intervention in the upper levels of the restrictive housing program. This latter intervention is delivered in a classroom setting with four to six people at a time.

**In-Cell Activities.** The in-cell activities consist of video-based assignments made possible by a dedicated television channel in the facility and workbooks and other written materials. Participation is mandatory for progressing through the levels, but SDSP also offers an incentive (i.e., days off minimum duration of levels) when individuals demonstrate consistent, active participation.

	<b>Programming for Moving to Next Level</b>	<b>Incentive</b>
Level 2	<ul style="list-style-type: none"> <li>▪ Video programming; self-directed activities</li> </ul>	One week off the minimum level duration for every four weeks’ worth of video or self-directed assignments completed and submitted
Level 3	<ul style="list-style-type: none"> <li>▪ Thinking for Good (planned)</li> <li>▪ Video programming; self-directed activities</li> </ul>	
Level 4	<ul style="list-style-type: none"> <li>▪ MRT (start the program)</li> <li>▪ Video programming; self-directed activities</li> </ul>	
Level 5— Transition	<ul style="list-style-type: none"> <li>▪ MRT (finish the program)</li> <li>▪ Dialectical Behavior Therapy (optional)</li> <li>▪ Video programming; self-directed activities</li> </ul>	

<sup>10</sup> More information on and a screenshot of the Daily Behavior Log can be found on CJJ’s website: <http://www.crj.org/cji/entry/promoting-positive-behavior-in-restrictive-housing>.

**Out-of-Cell Cognitive Behavioral Intervention.** Inmates in level 4 must begin Moral Reconciliation Therapy (MRT) and complete the first three steps to be eligible to move to level 5 (the transition unit). MRT is an evidence-based cognitive behavioral program designed to lead to “enhanced moral reasoning, better decision making, and more appropriate behavior.”<sup>11</sup> Participants engage in a minimum of 12 sessions and are required to complete homework assignments. The MRT program marks the first opportunity for congregate activity in the restrictive housing program. This is made possible by therapy desks that were constructed by correctional industries and installed in a newly created classroom just outside of the restrictive housing units. As the picture to the left shows, the desks provide requisite security while allowing people to fully participate in a congregate classroom setting.



Figure 1: Classroom Instruction

Inmates in level 5 must complete the MRT curriculum before they can return to general population. In addition to MRT, programming such as GED and chemical dependency and mental health treatment or programming may be required at the direction of the case manager.

**Case Manager Reviews.** The restrictive housing case manager conducts monthly out-of-cell reviews with each participant. The review meetings have two purposes—to continue planning for return to general population and to reinforce positive behavior and address noncompliant or otherwise problematic behavior. The content of the meetings include, but is not limited to, the following:

- Review of the inmate’s behavior logs;
- Review of any compliance issues, disciplinary violations, or other sanctions;
- Discussion of program progress;
- Recommended programming or activities and program participation;
- Compliance with medical and mental health recommendations; and
- Discussion of any concerns regarding self-harm.



Figure 2: Out-of-Cell Case Manager Review

<sup>11</sup> <http://www.moral-reconciliation-therapy.com/aboutmrt.html>

## Release Preparation and Support

SDSP's restrictive housing program provides a significant amount of structure and support to participants that is not necessarily provided in a general population setting. Recognizing this, SDSP staff put into place a graduate support system to assist participants in the initial months following placement into general population. The support system includes the following:

1. *Notification:* The unit manager for unit D, who oversees the transition unit, notifies the unit manager overseeing the unit to which the graduate will be assigned. The transition unit manager's notification conveys that the person graduated from restrictive housing and will require an initial contact as described below.
2. *Initial Contact:* The unit manager of the receiving general population unit makes initial contact with the restrictive housing program graduate within 2 business days of his return to general population to orient him to the unit. The orientation includes—
  - review of unit schedule and expectations;
  - review of the process for requesting cell changes and mental health services;
  - provision of the names of the case manager and unit coordinator; and
  - a copy of the unit plan and rules.

The date and content of the discussion are recorded in the department's offender management system.

3. *Case Manager Contact:* The case manager—
  - conducts one-on-one office meetings with the graduate every 2 weeks for the first 3 months of the return to general population (these meetings are recorded in the offender management system and include recognition of positive and prosocial behavior since graduation; discussion of any issues or challenges the graduate is having and potential solutions or strategies to address them; discussion of any changes to the graduate's release plan; and assistance with parole hearing and release preparation);
  - communicates any issues or challenges to the unit manager and the restrictive housing manager via email; and
  - reviews weekly the disciplinary reports for 2 months from the date of program graduation and reports the findings to the unit manager and the restrictive housing manager via email.
4. *Graduate Discussion Group:* The restrictive housing manager conducts an optional monthly discussion group with those who graduated from the restrictive housing program in the past 6 months. Topics covered in the group include—
  - use of skills learned while in the Restrictive Housing Program;
  - current challenges to success and how the graduates are addressing them; and
  - current goals and progress towards those goals.

In early graduate discussion groups, program graduates indicated that while the restrictive housing program's step down process allowing for fewer restrictions is beneficial, they still experienced discomfort being around others and had some difficulty adjusting to general population. They suggested that it may be useful to have discussion groups before graduating to help identify and address challenges they may face. Given the feedback and the desire to provide additional group activity in the transition unit, SDSP expanded the graduate support system to provide supports for people in the transition unit in addition to the period following return to general population.

### Objective Release Decision-Making

Before implementing the new nonpunitive restrictive housing program, the decision to return someone from restrictive housing to general population had been fairly subjective—based on someone doing “enough time” or because staff thought “he’s ready.” SDSP recognized that this approach was not a good way to determine readiness for general population, so they shifted their decision-making to more objective criteria with a focus on behavior change. The decision to return someone to general population is now based on behavior that is tracked daily, participation in activities and programming, regular case manager reviews, and rule compliance.

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*“Review hearings are more meaningful now. More staff are providing input to inform decisions – from senior security staff to officers. And, during the hearings, there are more questions asked of the offender and real dialogue about what they’re learning.”*

*~Troy Ponto, Associate Warden, SDSP*

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As a participant moves through the levels, a progressively larger and higher level group evaluates his readiness to advance. The table below shows who reviews the person’s progress for movement to a subsequent level and to general population.

Progression	Reviewers
Level 1 to Level 2	Restrictive Housing Manager
Level 2 to Level 3	Restrictive Housing Manager
Level 3 to Level 4	Restrictive Housing Manager, Major, Sergeant or Corporal, and Associate Warden
Level 4 to Level 5	Restrictive Housing Manager, Major, Sergeant or Corporal, Associate Warden, and Deputy Warden
Level 5 to General Population	Restrictive Housing Manager, Major, Sergeant or Corporal, Associate Warden, Deputy Warden, and Warden

These progressively higher-level reviews ensure that SDSP leaders are active participants in the decision to move people into less restrictive settings and ultimately into general population. In addition to monthly program and data reviews at the highest levels, the restrictive housing policy requires annual in-depth case reviews by the SD DOC Director of Prison Operations or Cabinet Secretary for individuals whose stays in restrictive housing exceed 24 months.

### **Foundational Supports for the Restrictive Housing Reform Effort**

The program described above would not have been possible without supports and processes in place to set expectations, create a sense of ownership, ensure the program is delivered as designed, and monitor progress. This section describes these supports and processes and how they were employed in SD DOC's reform effort.

#### ***Clear Policies and Procedures***

Given the disconnect between current use of restrictive housing and where corrections leaders want to go with restrictive housing, policies and procedures that underpin restrictive housing decisions need a complete overhaul. SD DOC was no different. Rather than amend current policies, the department spent a significant amount of time designing, writing, revising, and rolling out to facility staff its nonpunitive restrictive housing policy. Policies are one of the many ways the department communicates its intent to staff as well as to those outside of the department who have an interest in restrictive housing and how it operates.

The new policy and procedures also set the expectations for people incarcerated at SDSP. SD DOC developed an orientation manual that it provides to individuals who come into restrictive housing. The manual communicates the new policy and the specific expectations of the program. This way, inmates are aware of behavioral expectations, how they can progress, and how much time it will take to work through the program.

#### ***Professional Standards and State Examples***

During the design of its new program, SD DOC reviewed the guiding principles for restrictive housing established by the Association of State Correctional Administrators. The department also considered standards established by other national associations and explored examples from other states engaged in restrictive housing reforms. Not only were the state examples useful in the program design, but they also served as a reminder throughout that significant reform is possible and can yield positive results.

#### ***Staff Engagement, Buy-In, and Training***

Recognizing that correctional staff are essential to the success of restrictive housing reform, SD DOC made sure they were engaged not only in implementing the reforms, but also in their design. Staff developed the level system and process for tracking behavior, and continue to offer solutions to issues as the department works towards full implementation of its program.

The department also anticipated that officers in restrictive housing would be asked to operate very differently and utilize a different set of skills than they had used before. Because of this, SDSP instituted a unique staff-selection and incentive system<sup>12</sup> to ensure it attracted officers who were a good fit for the restrictive housing environment.

SD DOC sought to provide meaningful incentives not only to attract staff to restrictive housing but also to retain them. Towards this end, four incentives were instituted.

- A pay differential for restrictive housing staff;
- A unique work schedule ensuring staff work no more than 3 days in a row and allowing for every other Friday, Saturday, and Sunday off;
- A permanent team structure; and
- Specialized training to work in the restrictive housing environment.

With these incentives in place, the department instituted a new staff selection process. Restrictive housing positions were posted, and staff were invited to apply to participate in a panel interview process. The candidates were also evaluated by SDSP supervisory staff who indicated which staff they recommended and why. Staff leave in the prior 12-month period was also reviewed and considered on a case-by-case basis (but was not used to reject any applicant). This selection process was so vital to the restrictive housing program that it has been memorialized in policy.

### ***Performance Measurement and Quality Assurance***

From the beginning, SD DOC and CJJ set out, through performance measurement, to examine who is in restrictive housing and how this set of individuals differs from general population, demonstrate how the new restrictive housing policy and program is being implemented, track inmate progression through the program, and monitor how people behave upon release to a less restrictive correctional setting. DOC selected a set of measures that conveys relevant and important information about restrictive housing, aligns with SD DOC's goals, and relies on data already being collected.<sup>13</sup> The measures include—

- number and percent admitted to and housed in restrictive housing;
- approval rate of referrals to restrictive housing;
- average length of stay;
- rate of violent incidents in restrictive housing and general population;
- returns to restrictive housing;
- timeliness of placement determinations, hearings, evaluations, and reviews;
- on-time progression through level system; and
- releases from restrictive housing to the community.

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<sup>12</sup> For more information about SD DOC's approach to staff selection and incentives, see <http://www.crj.org/cji/entry/restrictive-housing-attracting-your-best-staff-where-they-are-needed-most>.

<sup>13</sup> To read more about SD DOC's experience with performance measurement, see <http://www.crj.org/cji/entry/new-cji-publication-restrictive-housing-performance-measures>.

The department made, and continues to make, an investment in automating the measures so they can be reviewed quarterly. The measures provide a foundation for improving practice and celebrating successes.

CJI worked with SD DOC to develop a process to ensure that the policy is being followed with fidelity, as best practice requires. Using the restrictive housing policy as a guide, CJI developed a fidelity tool to quantify the extent to which required paperwork is completed and decisions are made in a timely fashion and whether supporting documentation provides sufficient justification for the decisions made. Moving forward, SD DOC plans to utilize data from its offender management system to automate parts of the fidelity assessment, such as timeliness of required actions, and to monitor other aspects of policy compliance.

### *Technical Assistance*

While technical assistance is not always necessary, jurisdictions that receive assistance report that they benefit from the expertise of others, experience with other systems, assistance with organizational change, and the extra staff time and project management support that outside assistance brings. The CJI team brought extensive restrictive housing expertise, as well as familiarity with the corrections system and criminal justice leaders in the state. The experience and expertise enabled a successful partnership with SD DOC to bring about restrictive housing reform.



## CONCLUSION

Every jurisdiction that embarks on restrictive housing reform will go about it in its own way and on its own timeline. It is the hope that what is presented in this report, while unique to a single jurisdiction, will be informative to other states and localities. Below is a set of overarching lessons learned by the South Dakota Department of Corrections and a note about the time it takes to implement new approaches and implement them well.

### Keys to Restrictive Housing Reform

Throughout the program design and implementation phases in South Dakota, many lessons were learned. This section presents an overview of those that are most important to successfully implementing restrictive housing reforms.

**Ongoing planning is essential.** From day 1, it is important to have a planning process in place that evolves as needed—and it will be needed. Ongoing implementation planning provides a framework for those leading the reform effort to regularly ask themselves “Where are we now and what needs to happen next?” “Are we ready for the next step?” “If not, what needs to be done to get ourselves and the staff ready?”

Throughout the design and rollout of the restrictive housing program, the restrictive housing manager and CJJ worked closely to construct and modify plans for all areas of work. The plans detailed tasks, timelines, and the persons responsible for each step, and guided project communications.

**Leadership is necessary and can be developed.** Restrictive housing reform may be trendy in national forums, but the reality is that reform may be difficult and potentially risky at the state and local levels. Reform does not engender much support beyond the advocacy community and can be a political risk for leadership if nothing is done—or if something is done and there is a dangerous incident that is linked to the reforms. Managing these risks and pushing ahead requires authentic leadership.

For South Dakota, this leadership comes from the helm of the DOC. Secretary Kaemingk has quietly emerged as a national leader in criminal justice reform, and saw restrictive housing as unfinished business in his state. He understood the court challenges and the Department of Justice intervention into restrictive housing practices in other jurisdictions, is knowledgeable on the limited available research that is out there, and is aware of what other states are doing. However, ultimately his leadership in restrictive housing reform is based on a simple principle—“It’s the right thing to do.” When reform is a moral imperative, the risks of not doing anything outweigh any risks that may come along with doing something big for the right reasons.

As with any organizational change effort, leadership at the top is not enough. It needs to be developed at all levels of a department and facility for change to be sustainable. The toughest audience in South Dakota was senior security staff. Their main responsibility is institutional



safety, and to date, SDSP had been a safe facility for staff and incarcerated people. Getting them first to understand that change was needed and, second, that change could happen without jeopardizing staff safety was important. Further, they needed to understand that their leadership is crucial to the program's success. SD DOC leadership and CJI invested in relationships with key individuals; shared national trends and perspectives as well as practices and results from other states; and engaged them in every aspect of the program design and implementation. For a couple of senior staff, it wasn't until the pilot was rolled out that they really bought in, but now they are some of the best spokespeople for the restrictive housing program and are instrumental in finding solutions to issues that arise.

Leadership amongst corrections officers came naturally and quickly. They do the work day-to-day and knew something was not working, or at least that restrictive housing could be done better. Because of this, their early contributions to the effort significantly influenced what the program looks like today.

**Restrictive housing reform must be a real and visible priority.** The unpredictability of the day-to-day operations of a prison is enough to keep senior security, supervisory, and line staff busy. Introducing a major reform effort into the picture can seem unreasonable or just one more thing that will be introduced and then forgotten. To overcome these perceptions, leaders must convey that restrictive housing reform is a priority and why, make investments that convey its importance, and contribute to making it possible.

Given the responsibilities of the individuals on the restrictive housing steering committee, it became clear that if progress was going to be made it would require a full-time coordinator to manage implementation. SD DOC leadership was able to repurpose a full-time employee position to hire a restrictive housing manager. This unit manager level position is dedicated solely to implementation and the daily operations of the restrictive housing program. The decision to offer a pay differential for corrections officers working on the restrictive housing teams was another meaningful investment that demonstrated SD DOC's commitment to change.

**Ownership sustains the reforms.** Ongoing staff engagement drives the ownership needed for major organizational change. Engagement of staff at all levels in the planning and implementation process is vital to organizational change, but true engagement is not all that common. Deep engagement of staff requires management support for staff to step away from their day-to-day responsibilities, ensure that staff have sufficient background information to be equal contributors, and act on their input.

SD DOC's investment in a restrictive housing manager position was instrumental to engaging staff. She meets with staff to get their input and brings the views of those doing the work back to the steering committee so the input is used to develop solutions.

**Accountability drives progress.** Having an implementation plan and committed leadership and staff are not enough. An accountability structure must be in place. With SD DOC, what worked best were regular meetings with members of the steering committee. The meetings were

facilitated by CJI and included the SD DOC secretary, deputy secretary, and director of prisons; the SDSP warden, associate wardens, and restrictive housing manager; SD DOC legal, research, and best practices staff; and behavioral health staff from the Department of Social Services. At the start of implementation, the meetings were held weekly, then moved to biweekly and are now held monthly. The agendas include—

- reviewing SDSP restrictive housing operations, successes, and challenges;
- troubleshooting challenges that arise;
- assessing monthly and quarterly data and any actions that need to be taken as a result;
- making decisions on issues needing higher level approval; and
- updating the group on national activity around restrictive housing, legal challenges, and agreements in other states.

These regular meetings are credited with keeping implementation moving forward and ensuring that all are contributing to progress.

### Time Needed for Implementation

Research tells us that the process of implementation takes from 2 to 4 years.<sup>14</sup> This is certainly true in an environment like the South Dakota State Penitentiary where nonpunitive restrictive housing had been practiced the same way for the past 20 years.

The assessment and program design phase took 8 months. It could have been done faster, but in this case faster would not have been better. Time was needed to understand the problem, articulate the new direction, develop leadership, engage staff in the planning, ready the administrative supports, and prepare the staff to pilot the new program. And, most importantly, time was needed for SDSP staff at all levels to become comfortable with the perceived and actual risks they could encounter by engaging differently with people in prison and providing different opportunities for them.

The 5-month pilot period not only allowed for problem identification and adjustments to the design but also demonstrated to reluctant staff that setting expectations and providing incentives can have an immediate impact on the orderly running of the unit and on inmate behavior. All staff noted immediate improvement in noise level, cleanliness, rule compliance, and how inmates addressed staff.

The pilot also generated inmate interest in the new program. People who heard about the program and initially were uninterested were soon asking how to get into the program. They saw other inmates afforded privileges they were not and saw there was a path back to general population.

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<sup>14</sup> Fixsen et al. (2005). *Implementation Research: A Synthesis of the Literature*. Tampa, FL: University of South Florida, Louis de la Parte Florida Mental Health Institute, The National Implementation Research Network (FMHI Publication #231)

Each jurisdiction's timeline will be unique to their needs, culture, and circumstances. When this report was being written, South Dakota's program had been fully operational for almost a year and the preliminary results are very encouraging. The performance measures are moving in the right direction, and the SD DOC is well positioned to make sure each component of the program is in place and operating as designed. The new program is not a program anymore; it is now just business as usual.



FOR MORE  
INFORMATION, CONTACT:

**Barbara Pierce Parker**  
*Managing Associate*  
Crime and Justice  
Institute at CRJ  
Boston, MA  
[BPierce@crj.org](mailto:BPierce@crj.org)  
or (617) 482-2520  
[www.crj.org/cji](http://www.crj.org/cji)

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**BJA**  
Bureau of Justice Assistance  
U.S. Department of Justice

# Bridging the Divide: Improving Parole Outcomes for Native Americans in South Dakota

October 2016  
Brief

Alison Shames and Ram Subramanian

## From the Center Director

As part of our work with the Justice Reinvestment Initiative, Vera collaborated with state governments and provided technical assistance aimed at facilitating the successful implementation of new policies and programs. We helped policymakers prioritize their needs, identify resources that would build their capacity, and develop performance measures to help track their progress.

The program discussed in this report is just one example of the many innovative solutions that jurisdictions involved in the Justice Reinvestment Initiative are employing. Focusing squarely on improving parole outcomes, and ultimately reducing the re-incarceration rate of Native Americans in South Dakota, the featured pilot seeks to address the historical overrepresentation of Native Americans in that state's criminal justice system. Unlike many past efforts, this solution gives the tribe the authority and responsibility of supervising its state parolees; it also incorporates a "Wellness Team" into the supervision process, which has successfully engaged the Native American community like never before.

This featured program renews our optimism in the capacity of the criminal justice system to transform itself, despite significant historical and jurisdictional challenges. We hope this brief inspires other states to undertake similar reforms.



Fred Patrick  
Director, Center on Sentencing and Corrections  
Vera Institute of Justice

## The Justice Reinvestment Initiative

In 2010, the U.S. Department of Justice's Bureau of Justice Assistance (BJA) launched the **Justice Reinvestment Initiative** (JRI) in partnership with the Pew Charitable Trusts. JRI is a data-driven approach to improve public safety, examine corrections and related criminal justice spending, manage criminal justice populations in a more cost-effective manner, and reinvest savings in strategies that can hold justice system-involved people accountable, decrease crime, and strengthen neighborhoods. At least 30 states throughout the nation engaged in this process. Between 2011 and 2016, BJA funded the Vera Institute of Justice (Vera) to provide technical assistance to eight of these states, helping them collect and analyze data on the drivers of criminal justice populations and costs, identify and implement policy and programmatic changes, and measure the fiscal and public safety impacts of those changes.<sup>1</sup>

One JRI milestone is for states to pass comprehensive criminal justice reform legislation to usher in new policies, practices, and programs. This brief focuses on a promising program in South Dakota that addresses a problem common to many jurisdictions: providing effective supervision to Native Americans who leave prison and return to live on tribal lands. After describing the problem, this brief summarizes the new approach taken by South Dakota and ends with a report of the program's initial successes. This brief is the first in a series of three that focuses on JRI activities in states where Vera has worked.

## The problem

South Dakota was invited to participate in the Justice Reinvestment Initiative in 2012, embarking on a comprehensive effort to improve public safety and reduce the state prison population and its costs. Stakeholders included a bipartisan, multi-branch group of state officials. They acknowledged the challenge of improving outcomes for people on parole. Analysis showed that the number of people on parole who failed to comply with the terms of their supervision grew as a share of the prison population from 18 percent in 2000 to 25 percent in 2012.<sup>2</sup> The annual number of people who violated their parole and were admitted into prison almost tripled in that same period, from 270 people in 2000 to 768 in 2012.<sup>3</sup> Further analysis revealed that people who identify as Native American constituted 44 percent of those who were returned to prison for a parole violation, despite making up only 24 percent of the entire parole population.<sup>4</sup> Among this group of Native Americans in South Dakota, the rate of return to prison within three years of their release was 53.2 percent, compared to 38.8 percent for all others statewide.<sup>5</sup>

These statistics may not have surprised the Native Americans who left prison and returned to live on tribal lands or the Department of Correction (DOC) parole agents who supervised them. Native American parolees and their parole agents face a number of challenges that have contributed to high failure rates:

- > *Challenging residential conditions:* From the time of their release from state prison, Native Americans who return to tribal lands face supervision conditions that are challenging to uphold. Although Native Americans in South Dakota can live on tribal lands upon release, their conditions of release often require that they live in one of the state's urban regions to maximize their chance of finding employment. Although the parole board no longer imposes this condition as often as it once did, its prioritization of employment over family connections through this residential condition ignores the reality that many Native Americans will ultimately return to their tribal home. This emphasis on employment over family conflicts with evidence-based practices indicating that parolees who return to a strong support network are more likely to succeed.

- > *Limited access to services in tribal areas:* When Native Americans return to tribal lands, they may have access to fewer services than many who return to a non-tribal area. For instance, the person's parole agent may work 50, 100, or even 200 miles away, making it extremely challenging to establish a good working relationship or receive effective and helpful supervision. Reentry resources, such as substance use or mental health treatment or housing assistance, are scarce on reservations. What's more, the tribal community at large is typically not engaged in the reentry process. Most Native Americans view the state parole process suspiciously and fail to see how the parole infrastructure could potentially help a family member or friend. Unfortunately, the perception that many tribal members hold is that parole is an agency whose goal is to "throw...loved ones in jail."<sup>6</sup>
- > *Inability to hold parolees accountable:* Federally recognized tribes are considered domestic dependent nations that possess "tribal sovereignty"—the inherent and inextinguishable authority to govern themselves to the exclusion of local state jurisdiction.<sup>7</sup> Tribes' special legal status evolved over centuries of government-to-government dealings between the United States and certain Native American tribes, and it is one that these groups are eager to preserve and enhance.<sup>8</sup> Because state authorities cannot assume jurisdiction over tribal lands without a tribe's consent, South Dakota's state parole agents have limited ability to supervise Native Americans who live on tribal lands.

Although state parole agents can try to extradite parolees alleged to have violated the conditions of their supervision, in practice this does not usually happen because of the relative lack of state-tribal relations and the resulting low level of collaboration between the state and tribal law enforcement and with the community in general.<sup>9</sup> Agents often know only about a parolee's emergency contacts and do not regularly communicate with the person's wider support network. This means that if there is a violation, no matter how major or

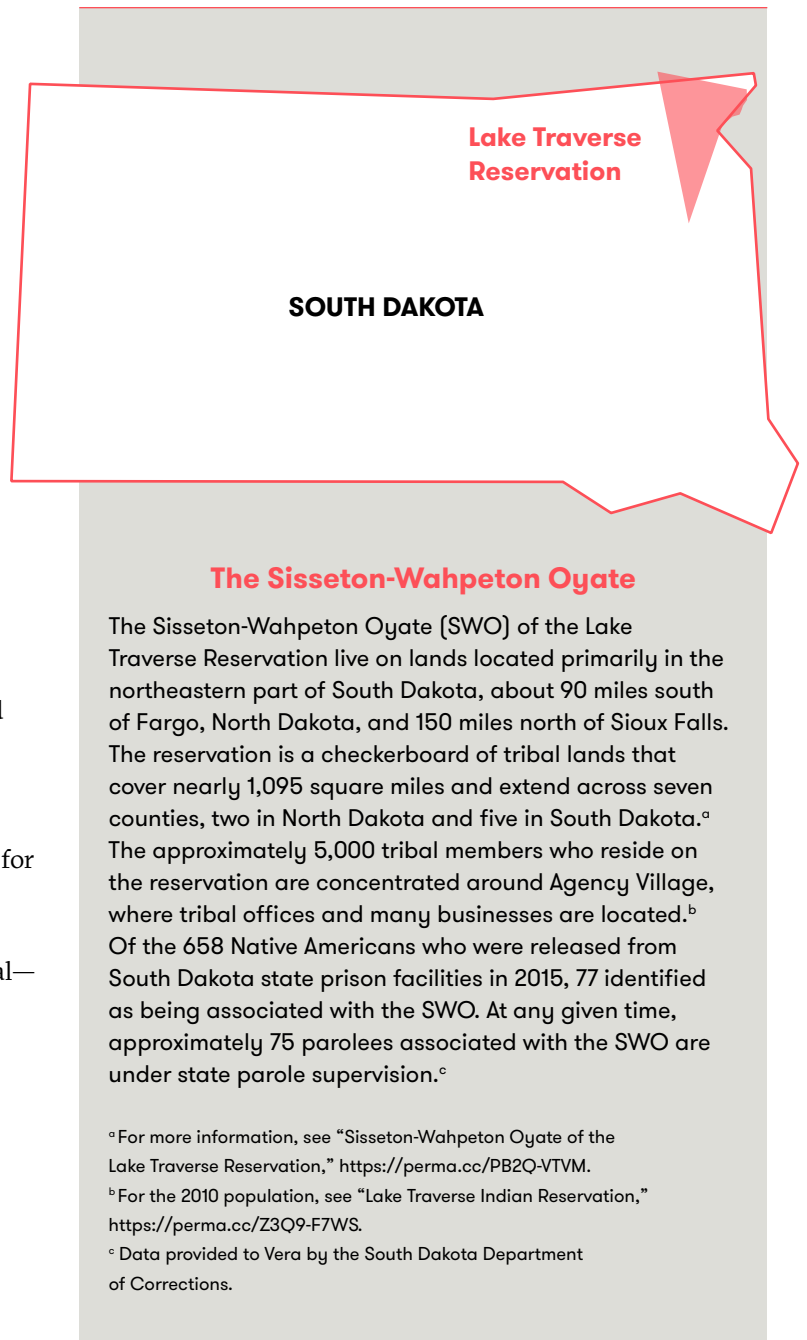
minor, the only real options for the supervision agent are to do nothing or officially revoke people from parole as absconders and pick them up on a warrant once they leave tribal lands. Given these challenges, the DOC has historically chosen the latter option, so that by 2012, more than half of parolees who absconded from state parole supervision were Native Americans.<sup>10</sup>

## A new approach

South Dakota's JRI legislation, the Public Safety Improvement Act (SB70), which was initiated and signed into law by Governor Dennis Daugaard in February 2013, encompasses a broad range of criminal justice reforms, including authorizing the DOC to create parole supervision pilot programs tailored to tribal communities.<sup>11</sup>

With this mandate, and knowing the challenges of supervising tribal members on parole, Governor Daugaard directed the DOC to reimagine parole supervision for this population. Over a series of months, senior DOC staff including Secretary Denny Kaemingk held meetings with seven of the state's nine recognized tribes to discuss ideas for the pilot program and explore possible partnerships. Even more important than determining the exact shape of the pilot program, finding the right tribal partner was essential—one large enough to justify its own parole program and, critically, interested in collaborating with the DOC.

Ultimately, the Sisseton-Wahpeton Oyate (SWO) of the Lake Traverse Reservation agreed to work together to develop a pilot program. Over the previous decade, 325 incarcerated people who identified themselves as being associated with the SWO had been released from prison.<sup>12</sup> During that period, there was a total of 335 admissions to prison (new court and parole violation admissions) of individuals who self-identified as being associated with the SWO. As a result, members of the SWO Tribal Council were persuaded to set aside historical differences with the state and agreed to work cooperatively because they appreciated that the community would benefit from a program focused on improving parole outcomes.



<sup>a</sup>For more information, see "Sisseton-Wahpeton Oyate of the Lake Traverse Reservation," <https://perma.cc/PB2Q-VTVM>.

<sup>b</sup>For the 2010 population, see "Lake Traverse Indian Reservation," <https://perma.cc/Z3Q9-F7WS>.

<sup>c</sup>Data provided to Vera by the South Dakota Department of Corrections.



The SWO and the South Dakota DOC signed an agreement in April 2014. The Tribal Parole Pilot program granted the SWO the authority—and responsibility—to supervise parolees who returned to SWO tribal lands, upending the “us versus them” dichotomy that previously existed. This, along with two additional features described below, made the pilot program unique.

## It’s a tribal program, not a DOC program.

The director of the SWO Parole Office and the parole agent who oversees the caseload are employees of the tribe. Although the DOC pays for the agent’s salary, office space, and other expenses, the agent answers not to the DOC but to the tribal council and what’s called the Wellness Team—a multidisciplinary team of mostly tribal employees created specifically for this program. The team works with the parole agent and parolees to access services and provides appropriate supervision, support, and responses to violations.<sup>13</sup>

Despite this change, the tribal parole process is consistent with state parole supervision in many respects:

- > The tribal parole agent receives the same training as a state parole agent and has access to the state computer network, receives a state e-mail account, uses DOC databases and resources, and receives support from state parole colleagues. This allows for a consistent release planning system and makes data accessible for state analysis.
- > The supervision policies and response matrix of the Tribal Parole Office largely conform to those of the state, with a few cultural modifications. The tribal parole system applies swift, certain, and proportionate sanctions for prohibited behavior, along with incentives for compliance, just as state parole does.<sup>14</sup>
- > Similar to a state parole agent, the tribal parole agent’s duties include monitoring the day-to-day activities of parolees, such as conducting home visits and community visits to verify their compliance with release conditions.

Making the agent a tribal employee defused some of the jurisdictional tension that had affected parole outcomes for tribal members in the past. It showed good faith by the DOC that department leaders were serious about giving up control and letting the SWO supervise the people in the pilot program. By shifting the power dynamic in this way, South Dakota removed one of the barriers that historically made cooperation between a tribe and the state difficult.

## The Wellness Team is an integral part of parole supervision.

The existence and role of the Wellness Team is the most significant way that the Tribal Parole Pilot differs from state parole supervision—and DOC and SWO members Vera interviewed consider it a key reason for the program’s success.

The Wellness Team is a loosely organized group of people from various organizations and agencies who have an interest in a parolee achieving success.<sup>15</sup> Although there are no formal membership protocols or requirements, the team includes the tribal parole director and agent, as well as representatives from Sisseton-Wahpeton Law Enforcement, Sisseton-Wahpeton College, Dakotah Pride (a provider of inpatient and outpatient substance use treatment services), the South Dakota Human Services Department, the SWO Tribal Court, the SWO Drug Treatment Court, and tribal health programs. The state’s parole services director is also welcome at and periodically attends Wellness Team meetings. Meeting on a weekly basis, the responsibilities of the Wellness Team include the following:

- > welcoming the parolee back to the community officially and communicating that the team and the community are there to help, but that the parolee will be held accountable;
- > meeting with the parolee on an as-needed basis;
- > working with the tribal parole agent to review and develop appropriate responses to a parolee’s behavior, emphasizing a reliance on community-based resources—tribal, county, state, and others—to address relevant issues; and



- > receiving community input—from the parolee’s family members and friends and from other interested community members.

The first meeting after a parolee’s release—known as the Welcoming Meeting—is a critical part of the program. Tribal members returning from state prison may be suspicious and apprehensive of state parole. The Wellness Team uses the initial meeting to dispel myths or misconceptions that a parolee and his or her family might have about the Tribal Parole Office. They communicate this important message: “We are here to help you, but you need to work with us to succeed.”

When appropriate, the Wellness Team has the flexibility and discretion to draw on traditional and culturally relevant practices as a behavioral response. For parolees who adhere to traditional Native American beliefs and practices, reinforcing those traditions can be quite effective. As the tribal parole director explained, “Not everybody practices his or her traditional ways. The ones that do—we’ll use that. We ask them, ‘What are you doing to hold on to those practices?’ If they need to do community service, we’ll recommend that [as a response]. We’ll excuse them from [mandatory appointments, such as drug testing] so that they can participate in Sun Dance, which lasts several days.”<sup>16</sup> Meaningful responses may include cutting wood or doing other work for Sun Dance and collecting rocks and helping with the sweat lodge. Although the Wellness Team reports that it does not often use traditional practices as a response or sanction, having the option is extremely meaningful to the community.

The Wellness Team has done more than just help the tribal parole agent deliver effective supervision. It has also promoted the involvement of parolees’ family members and other loved ones from the community to help people achieve success. Through the Wellness Team, family, friends, and other tribal members are engaged in the reentry process and with people on parole as never before in DOC history. Community members no longer wonder what to do when faced with a parolee’s negative behavior; they intervene, communicate with the Wellness Team, and make efforts to help the person reintegrate into the tribe.

### How the pilot works

On a recent Wednesday afternoon, John, a member of the SWO, arrives for his scheduled parole appointment at the SWO Parole Office in Agency Village. John has recently tested positive for marijuana and knows he will face some consequences. Around the table at his appointment are his tribal parole agent, the director of the SWO Parole Office, and members of the Wellness Team, which, on that day, include Randy from the Sisseton-Wahpeton College who is also a former parolee; George from the Sisseton-Wahpeton Law Enforcement; and Diane and Robert from Dakota Pride, a provider of inpatient and outpatient substance use treatment services. Everyone present is a member of the SWO.

John is worried, not because he thinks he will return to jail or prison, but because he knows that the people at the table—some of whom he has known since he was a child—will hold him accountable for his actions in other ways. He is worried because he considers Randy and George role models and they will be disappointed in him. The team talks with John about what happened and what led to his drug use. The parole agent has previously spoken with John’s mother. Together, John and the Wellness Team determine a response to his behavior; in this case he ultimately enrolls in outpatient treatment. John is on the path to recovery.\*

\* This is a hypothetical situation meant to represent a typical meeting for a person who has violated his or her parole.

## The tribe must return parole violators to the DOC.

A nonnegotiable component of the program is the requirement that the tribe return parolees to DOC if they violate terms of their supervision *and* the parole agent and Wellness Team recommend revocation. This requirement is significant because of the complex jurisdictional issues between the state and federally recognized tribes that have historically limited the effectiveness of DOC supervision. As Bradley Lewandowski, the director of the DOC’s Parole Services, described:

We don’t have jurisdiction on tribal land. As a state entity, I don’t have jurisdiction over tribal members when they are on the reservation. We let them return home. I can meet with them at their house or when they attend treatment. But when they [are] in violation...even if I caught them violating

at their house, I can't arrest them and take them off tribal grounds. I would have to say to them: 'You're in violation. I want you to report to the county sheriff's office by x time.' I would go to the office and wait. If they fail to show up, then I can list them as an absconder. That's my only option. The state issues a warrant and whenever they are off tribal land, I can pick them up. The tribes do not extradite their people and turn them over to us. As a state agent, if I go to tribal law enforcement, they [do] not have permission to cooperate with me. They will not arrest them for us. The parolee doesn't show up out of fear that they will automatically be sent back to prison.<sup>17</sup>

The hope now is that the tribal parole program will help change attitudes and build mutual respect between tribal communities and state criminal justice agencies—and in doing so will lead to sustained collaboration with the SWO and serve as a model for future collaborations with other tribes.

## Early successes

Before the pilot program, the parole success rate for SWO members was 43 percent. In other words, 57 percent of SWO parolees would have a violation report or return to prison because of a technical violation or a new criminal sentence.<sup>18</sup>

In the first two years of the program's operation (FY 2015 and FY 2016), the success rate climbed to 72 percent; out of 32 people discharged from the program, 23 successfully completed their parole terms and nine returned to prison.<sup>19</sup> The absconding rate also dropped dramatically. In the first year, only two parolees of the 61 participating in the program were reported as absconding (3 percent); and in the second year, only eight of 67 participants absconded (12 percent).<sup>20</sup> Previously, 15 to 20 percent of SWO parolees absconded.<sup>21</sup>

Numbers aside, the key stakeholders of the program—staff from the SWO Parole Office and the DOC—agree that the greatest measure of success is the cultural change within the DOC and the tribe. Members of the SWO are invested in getting better results from parolees. Community members are engaged in the parole and reentry process. Family members, friends, and parolees themselves no longer view parole as an adversarial process, but one that can help and support the person involved in the justice system. Family members often explain to the tribal parole agent or the Wellness Team what is going on with their loved one and express their concerns; this communication serves as a “heads up” about behavioral issues. By working together, DOC staff and tribal members are building trust and respect for one another. As Joan White, the current director of the tribal parole office, said, “They were surprised when we said, ‘Welcome home.’ It really created a culture of trust.”

In July 2016, the pilot became a permanent part of the SWO and DOC administration. The state and the SWO signed a new agreement and the program has been absorbed into DOC's overall budget and funding requirements. The pilot program's success has the potential to transform parole supervision for Native Americans in South Dakota as well as in other states; the DOC is engaged in conversations with other South Dakota tribes to implement parole programs in their communities. The persistent sticking point is the requirement that a tribe return parolees to the DOC upon revocation. However, with help from SWO members who can vouch for the success of the program, it is hoped that other tribes can work with the DOC to help improve parole outcomes.

## Endnotes

- 1 Vera worked with Arkansas, Delaware, Georgia, Kentucky, Louisiana, Oregon, South Carolina, and South Dakota.
- 2 South Dakota Criminal Justice Initiative Work Group, *Final Report*, (South Dakota: SDCJI, 2012) 5, <https://perma.cc/T3DQ-ZQRW>.
- 3 *Ibid.*
- 4 The South Dakota Department of Corrections tracks the race and ethnicity of its clients (people incarcerated at state prisons and people on parole supervision) based on self-reported responses to DOC intake forms. As such, the term “Native American” as used in this report may include some people who are not official tribal members of any federally recognized tribes, but choose to identify as Native American. Furthermore, throughout this report, the authors use the term “Native American” to refer to people who associate with an indigenous tribe of the United States, as it is the phrase used by members of the Sisseton-Wahpeton Oyate (SWO) of the Lake Traverse Reservation, the tribe that is the subject of this report. The authors acknowledge that the federal government uses the terms “American Indian” or “Alaska Native” to refer to the indigenous tribes of the continental United States (American Indians) and the indigenous tribes and villages of Alaska (Alaska natives such as Eskimos and Aleuts). This usage is reflected in the federal census and in the treaties and other legal documents between the federal government and those native groups that have been granted federal recognition and are eligible for benefits and services funded or directly provided by the federal Bureau of Indian Affairs.
- 5 For the percentage of Native Americans who returned to prison for a parole violation, see South Dakota Criminal Justice Initiative Work Group, *Final Report*, 9. The remaining data was provided by the South Dakota Department of Corrections.
- 6 Interview with Joan White, Director of SWO Parole Office, July 15, 2016.
- 7 See *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet. 1) 1 (1831), in which Chief Justice John Marshall characterized tribes as “domestic dependent nations” and declared that federal legislation had always considered these nations to be “distinct political communities, having territorial boundaries, within which their authority is exclusive, and having a right to all lands within these boundaries, which is not only acknowledged, but guaranteed by the United States.” Also see *Worcester v. Georgia* 31 US 515 (1832), which noted that “treaties and laws of the United States contemplate the Indian territory as completely separated from that of the states; and provide that all intercourse with them shall be carried on exclusively by the government of the union.” That case, which dealt with the interaction of Georgia’s state law and the Cherokee Nation, declared that state law has no force and that “citizens of Georgia have no right to enter but with the assent of the Cherokees themselves, or in conformity with treaties, and with the acts of Congress.” Subsequent case law has reinforced the principle of tribal self-government within tribal territory. See, for example, *Oklahoma Tax Commission v. Sac & Fox Nation*, 508 U.S. 114, 123–124 (1993) (denying application of state motor fuel tax to Indians in Indian country); *Montana v. Blackfeet Tribe*, 471 U.S. 759, 764–765 (1985) (barring state from taxing tribal royalties from mineral leases on trust land); *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 331–332 (1983) (denying state power to regulate non-Indian hunting and fishing on tribal land). In addition, Justice Marshall also recognized in the *Cherokee* case that the United States held a legally enforceable fiduciary obligation to protect tribal treaty rights, lands, assets and resources. Also see *Seminole Nation v. United States*, 316 U.S. 286 (1942).
- 8 Regarding the authors’ use of terminology, see note 4. Nell Jessup Newton, Robert T. Anderson, et al., eds, *Cohen’s Handbook of Federal Indian Law* (Albuquerque, NM: American Indian Law Center, 2012).
- 9 Currently all but two of the nine tribes in South Dakota have laws within their codes that describe procedures for the extradition of tribal members who are wanted in courts outside the reservation. See Frank Pommersheim, *South Dakota Tribal Court Handbook* (Vermillion, SD: USD School of Law, 2006) 13.
- 10 Office of Governor Dennis Daugaard, “Update on the Tribal Pilot Parole Program, June 19, 2015,” <https://perma.cc/8NAE-CPK9>.
- 11 The Public Safety Improvement Act also expanded access to specialty courts (such as drug courts and DUI courts), restructured the state sentencing framework to better differentiate between different levels of criminal conduct in order to prioritize prison space for people convicted of violent crimes or who are convicted multiple times, and invested heavily in behavioral health programs for justice system-involved people. See Senate Bill 70 (2013) at <https://perma.cc/M5B2-VZVP>.
- 12 Although some Native Americans prefer the term “nation” or “people,” the Sisseton-Wahpeton Oyate uses the word “tribe.” (The word “Oyate” means “people” or “nation.”) Under U.S. law, “tribe” is a bureaucratic term; to gain access to programs and to enforce rights due to Native Americans under treaties and laws, the federal government must recognize them. See 25 C.F.R. § 83.7 (2007), which lists the seven requirements for federal recognition. A tribe must meet all seven requirements under the regulations or the United States will not recognize the tribe per 25 C.F.R. § 83.6 (2007), and thus the tribe will not be eligible for the often critical services and benefits that recognition confers; see 25 C.F.R. § 83.2 (2007).

- 13 The concept of a Wellness Team was not new to the SWO. The tribe had previously used a similar team for members needing substance use or mental health treatment, and “wellness” is an important Native American concept. Its use as an integral part of the parole supervision process, however, was a novel adaptation of the model.
- 14 Research has shown that a swift response to an infraction is a vital tool in shaping behavior and improves the perception that the sanction is fair. See for example Angela Hawken and Mark Kleiman, *Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii’s HOPE* (Washington, DC: National Institute of Justice, 2009).
- 15 The Tribal Parole Office does not have any formal policies about the Wellness Team. When inviting additional members, team members look for resources in the community and people who will contribute and help.
- 16 Sun Dance is a ceremony some indigenous tribes in the United States and Canada practice. It is a ceremony at which members offer personal sacrifices for the benefit of family and community. See <https://perma.cc/G7QN-TBUB>.
- 17 Interview with Bradley Lewandowski, director of the South Dakota Department of Corrections Parole Services, June 9, 2016.
- 18 Data provided to Vera by the South Dakota Department of Corrections.
- 19 Ibid.
- 20 Ibid.
- 21 Ibid.

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#### For more information

The Vera Institute of Justice is a justice reform change agent. Vera produces ideas, analysis, and research that inspire change in the systems people rely upon for safety and justice, and works in close partnership with government and civic leaders to implement it. Vera is currently pursuing core priorities of ending the misuse of jails, transforming conditions of confinement, and ensuring that justice systems more effectively serve America’s increasingly diverse communities. For more information, visit [www.vera.org](http://www.vera.org).

To learn more about the South Dakota Tribal Parole Program, contact Joan L. White, director of the SWO Parole Office, at 605-698-7017 or [JoanW@swo-nsn.gov](mailto:JoanW@swo-nsn.gov); and Bradley Lewandowski, director of South Dakota Department of Corrections Parole Services,

at 605-626-2940 or [Bradley.Lewandowski@state.sd.us](mailto:Bradley.Lewandowski@state.sd.us).

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An electronic version of this report is posted on Vera’s website at [www.vera.org/bridging-the-divide](http://www.vera.org/bridging-the-divide).

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Revised: 03/23/2017

<p><b>Senator Troy Heinert</b>            PO Box 348            Mission, SD 57555            Home Phone (605) 856-5045            Work Phone (605) 856-2200            Cell Phone (605) 319-6570            Email: <a href="mailto:troyheinert@yahoo.com">troyheinert@yahoo.com</a>            Email: <a href="mailto:Troy.Heinert@sdlegislature.gov">Troy.Heinert@sdlegislature.gov</a></p>	<p><b>Judge John Brown</b>            PO Box 1238            Pierre, SD 57501            Work Phone: (605) 773-3970            Home Phone: (605) 224-0318            Cell Phone: (605) 295-0922            Email: <a href="mailto:John.brown@uj.s.state.sd.us">John.brown@uj.s.state.sd.us</a></p>		
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<p><b>Mark Anderson</b>            325 N. Domonic Avenue            Sioux Falls, SD 57107            Home Phone: (605) 274-6679            Cell Phone: (605) 941-9352            Email: <a href="mailto:mwickand@gmail.com">mwickand@gmail.com</a></p>	<p><b>Senator Arthur Rusch</b>            P.O. Box 312            Vermillion, SD 57069-0312            Home Phone: (605) 624-8723            Cell Phone: (605) 670-0013            Email: <a href="mailto:Arthur.rusch@gmail.com">Arthur.rusch@gmail.com</a>            Email: <a href="mailto:Arthur.Rusch@sdlegislature.gov">Arthur.Rusch@sdlegislature.gov</a></p>		
<p><b>David McGirr</b>            1840 Valley View Court            Huron, SD 57350            Cell Phone: (605) 354-6565            Email- <a href="mailto:david.mcgirr@icloud.com">david.mcgirr@icloud.com</a></p>	<p><b>Rep. Jamie Smith</b>            512 North Euclid Ave.            Sioux Falls, SD 57104            Home Phone: (605) 339-3583            Cell Phone: (605) 351-4733            Email: <a href="mailto:Jamie@hegg.com">Jamie@hegg.com</a>            Email: <a href="mailto:Jamie.Smith@sdlegislature.gov">Jamie.Smith@sdlegislature.gov</a></p>		
<p><b>Timothy G. Bottum</b>            555 Greenridge Lane            Mitchell, SD 57301-5247            Work Phone: (605) 996-5588            Cell Phone: (605) 996-0073            Home Phone (605) 770-1082            Email: <a href="mailto:tbottum@morgantheeler.com">tbottum@morgantheeler.com</a></p>	<p><b>Department of Corrections</b>            3200 East Highway 34            c/o 500 East Capitol Avenue            Pierre, SD 57501            Main Phone: (605) 773-3478            Fax: (605) 773-3194            Website:  <a href="http://www.state.sd.us/corrections/corrections.html">http://www.state.sd.us/corrections/corrections.html</a></p>		
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## FACILITY ROSTER

### **South Dakota State Penitentiary**

1600 North Drive  
P.O. Box 5911  
Sioux Falls, SD 57117-5911  
Phone: (605) 367-5051  
Warden: Darin Young

### **Mike Durfee State Prison**

1412 Wood Street  
Springfield, SD 57062  
Phone: (605) 369-2201  
Warden: Bob Dooley

### **Rapid City Community Work Center**

2317 Creek Drive  
Rapid City, SD 57703  
Phone: (605) 394-5294  
Unit Manager: Melody Tromburg

### **Yankton Community Work Center**

178 Mickelson Drive  
Yankton, SD 57078  
Phone: (605) 668-3355  
Unit Manager: Becc Coyle

### **Jameson Annex**

1600 North Drive  
P.O. Box 5911  
Sioux Falls, SD 57117-5911  
Phone: (605) 367-5120  
Warden: Darin Young

### **South Dakota Women's Prison**

3200 E. Highway 34  
C/o 500 E. Capitol Avenue  
Pierre, SD 57501  
Phone: (605) 773-6636  
Warden: Brent Fluke

### **Pierre Community Work Center**

3200 E. Highway 34  
Pierre, SD 57501  
Phone (605) 773-5368  
Unit Manager: Justin Jones

### **Pheasantland Industries**

1600 North Drive  
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Sioux Falls, SD 57117-5911  
Phone: (605) 367-5111  
Director: Darold Diede

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ADMINISTRATION**

3200 East Highway 34  
c/o 500 East Capitol Avenue  
Pierre, SD 57501-5070  
Phone: (605) 773-3478  
Fax: (605) 773-3194

To: Corrections Commission Members

From: Heather Van Hunnik  
Corrections Specialist  
Department of Corrections

Date: March 23, 2017

Subject: DOC Monthly Report Summary

**Month End Report for February 2017 and Fiscal Year (FY) 2017 to Date**

**Media Coverage/Current Events**

There were several news stories following the release of the Public Safety Improvement Act annual report on Feb. 16. Deputy Secretary Laurie Feiler was the guest on SD Public Radio's In the Moment program Feb. 21 to discuss the Oversight Council's annual report. The Mitchell Daily Republic published a response Feb. 28 from Sec. Kaemingk to an editorial board post they first published Feb. 22 regarding the impact of the Public Safety Improvement Act on local governments.

The Argus Leader published a story Feb. 10 regarding the impacts that the meth surge is testing the limits of the state's available treatment programs. KELO-TV aired a story on meth Feb. 12.

There were several news stories on Feb. 14 on the South Dakota Supreme Court hearing an appeal by the family of the late SCO Ronald RJ Johnson.

KELO-TV broadcast a story February 3 regarding unsealed court documents in Inmate Rodney Berget's case, including letters he wrote to Judge Hoffman, who is determining whether Berget is competent in making the decision to waive further appeals and proceed with his execution.

The Argus Leader published a story Feb. 17 regarding mental illness rarely being a factor for inmates sentenced to capital punishment.

There were multiple news stories following a press release from the Attorney General's office Feb. 24 requesting the public's help in the murder investigation of Inmate Moses Dubray in the southern Black Hills January 11.

The Argus Leader published a story Feb. 13 on House Bill 1146, which would allow for medical parole of chronically ill inmates. Deputy Secretary Laurie Feiler was interviewed for the story. The bill was later withdrawn by the sponsor.

KELO-TV aired a story Feb. 16 on a family disputing a bill from the Obligation Recovery Center regarding their son while he was assigned to STAR Academy.



Several newspapers around the state published a story Feb. 24 regarding House Bill 1209, which authorizes the state to sell the STAR Academy campus.

The Associated Press published a story Feb. 27 on the status of Senate Bill 80 dealing with drones. Sec. Kaemingk was quoted in the story.

The Rapid City Journal published a story Feb. 21 on the Playhouse Fire, which inmates from the RC Community Work Center assisted with.

The Yankton Press and Dakotan published a story Feb. 28 regarding plans for several Yankton area events, including the annual Missouri River cleanup project that inmates assist with. Sgt. Jerry Peterson was quoted in the story.

### **Adult Prison System**

There were 3,396 state male inmates and 495 state female inmates as of month end. This is an increase of 45 state male inmates and an increase of 4 state female inmates from the prior end of month count. There were 27 federal male inmates and 1 federal female inmate as of month end. The total population (state and federal inmates) at the end of the month was 3,919.

The Average Daily Count for state inmates in February was 3,869. The ADC for state inmates for FY17 (through the end of February) was 3,769.

There were 295 state inmates admitted to prison this month and 241 state inmates were released.

There was 1 walkaway this month that was placed on escape status after failing to return from a job furlough.

### **Adult Parole System**

There were 2,819 offenders under SD parole supervision as of the end of the month. This is an increase of 12 offenders from the prior month. 329 resided out of state and 2,490 offenders were on parole supervision in SD.

The average parole agent caseload for the month was 67 offenders.

There were 53 parole or suspended sentence violators.

### **Juvenile System**

There were 126 youth in facility placement (decrease of 9 from prior month) under DOC's authority at the end of the month. Combined, there were 110 male youth and 16 female youth in placement.

9 youth were committed or recommitted to DOC during the month (decrease of 5 from prior month), 10 were released to aftercare, and 26 youth were discharged from the DOC.

Of the 26 youth discharged in the month of February, 10 youth were less than age eighteen and 16 youth were age eighteen and over. Of the 10 youth discharged prior to age eighteen, 6 was discharged as a reward for good conduct based on evidence of reformation, 1 was convicted for a new crime as an adult, and 3 were discharged on aftercare with suitable placement and discharge was determined to be in the best interest of the juvenile. Of the 16 youth discharged who were age eighteen and over, 6 were discharged as a reward for good conduct based on evidence of reformation, 5 were convicted for a new crime as an adult, 2 reached the age of majority, live outside the jurisdiction, and interstate compact is not available, and 3 were discharged on aftercare with suitable placement and discharge was determined to be in the best interest of the juveniles.

Please see the attached table that summarizes the discharges for February.

There were 175 youth on aftercare as of the end of the month.

The average Juvenile Corrections Agent caseload (made up of youth in placement and on aftercare) was 13.7.

Please let Laurie Feiler or I know if you have any questions.



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3200 East Highway 34  
c/o 500 East Capitol Avenue  
Pierre, SD 57501-5070  
Phone: (605) 773-3478  
Fax: (605) 773-3194

Discharge Category	Statutory Discharge Criteria	Current Month			Fiscal Year to Date		
		Less than 18 Current Month	18 and Over Current Month	Total Current Month	Less than 18 FY to Date	18 and Over FY to Date	Total FY to Date
Category 1	Reward for good conduct and upon satisfactory evidence of reformation	6	6	12	31	47	78
Category 2	Conviction for a new crime as an adult	1	5	6	4	18	22
Category 3	Age of majority, lives outside the jurisdiction of the State of South Dakota and the interstate compact on juveniles is not available	0	2	2	0	4	4
Category 4	On aftercare and has a suitable placement, and a discharge is determined to be in the best interest of the juvenile	3	3	6	14	21	35
Category 5	Juvenile has reached the age of 21	0	0	0	0	2	2
<b>Total</b>		10	16	26	49	92	141

## GUIDING PRINCIPLES

for the Treatment of Incarcerated Persons Recovering from Mental Illness/Serious Mental Illness

**Support** - We prioritize and promote staff ownership of the well-being of recovering individuals in our care, with consistent emphasis on intensive support, healing, treatment, patience, empathy, positivity, and encouragement.

**Accountability** - We are accountable for those in recovery and ensure their continued receipt of individualized, quality treatment, services, and programming.

**Empowerment** - We promote the self-empowerment, self-care, and self-direction of individuals in recovery, ensuring their collaboration as participants in planning their own therapeutic journeys and all decisions that affect them, practicing motivational interviewing to increase their desire for positive change while reducing ambivalence, emphasizing personal responsibility, and encouraging the use of peer support specialists as role models of perseverance.

**Positive Messaging** - We motivate recovering persons with the message of hope for a better future, improve their coping skills and outlook about overcoming obstacles, share positive experiences and methodologies with other staff members, and promote community respect and acceptance as a powerful support to recovery.

**Individualized Treatment Planning** - We develop documented and retained recovery plans using psychiatric evaluations and a holistic, person-centered approach that speaks to the life history of recovering persons to include mind, body, spirit, and community, as well as treatment strategies based on individual strengths, needs, preferences, goals, experiences, gender, and cultural background.

**Comprehensive Coordination of Services and Providers** - We ensure that each facility has a Mental Health Coordinator (MHC) to synchronize treatment services for designated individuals, arrange and track mental health commitments, and provide a comprehensive plan for intervention until all services are coordinated.

**Incentives-Based Consequences** - We seek alternative, encouraging consequences for maladaptive behavior as conditions of confinement for persons in recovery, to include incentives that promote positive behavior and adjustment, with segregation used only as a last resort.

**Data-Driven Programs and Practices** - We collect a variety of data to continually measure and track outcomes, create and monitor new programs and practices, assess conditions of time in segregation, determine types of diagnoses and program participation, and examine gender-specific factors.

**Access to Services** - We ensure that individuals in restrictive housing, other than those in disciplinary detention, have access to programs and services that include educational, counseling, medical, behavioral health, social, commissary, and library services, as well as recreational programs, religious guidance, and telephone access.

**Quality Improvement Reviews** - We perform ongoing, cross-departmental review of our quality, which includes psychology staff involvement in all misconduct matters, in order to evaluate how we address mental health issues; to examine the use of medications and restraints; and to provide oversight for necessary areas of improvement.

**Established Guidelines** - We provide to staff specific criteria that emphasizes segregation as a last resort, focusing on the humanity of recovering persons, establishing consistency, defining required time out of cell, addressing cases in which non-compliance could sabotage treatment of other recovering persons, specifying guidelines for staff to make referrals to the Psychology Department for individuals with adjustment issues, and informing all necessary evaluations/modifications of mental health roster codes.

**Assessment** - We perform ongoing, regimented assessment of all recovering individuals from the time of reception, both as needed and after triggering events, using psychometric testing, as well as separate systems that classify each individual's needs for mental health services and automatically track their treatment at specific intervals during their entire incarceration.

**Education and Training** - We require staff on applicable specialty units to be trained in Crisis Intervention Training (CIT), and all staff to be trained in Mental Health First aid (MHFA), how to recognize the signs of mental illness/serious mental illness, how to effectively deliver programs, and how to promote peer support training for recovering individuals.

**Resource Specialization** - We ensure that specialized housing units are treatment and support intensive, including a greater concentration of staff with targeted training in mental health issues; implement the Certified Peer Support (CPS) program; and determine all other resources based on the specific needs of recovering individuals, physical structure of facilities, and other service requirements.

**Suicide Prevention** - We maintain a multidisciplinary committee at each facility to stay current on suicide prevention-related research, to make ongoing recommendations, and to review all attempted and completed suicides and other self-injurious behaviors, as well as assessment tools, screening, monitoring, appropriate housing, treatment strategies to help individuals at risk of hurting themselves or others, and suicide prevention training for staff and certified peer support specialists.

**Reentry Planning** - We ensure a continuity of care for individuals at all stages of recovery in order to prepare them for reentering the community, including mentoring, identifying and prioritizing benefits, creating connections with community services, providing life skills and other reentry-focused programs, and establishing release planning 18-24 months prior to release.

**Communication After Release** - We sustain a clear line of communication and follow-up with individuals from assessment through discharge, which includes proper placement on specialized housing units, review for continued placement, transition to general population when appropriate, and structured check-ins at both six months and 12 months after release, as well as a crisis response system to support positive outcomes.



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## Restrictive Status Housing Policy Guidelines

### **Purpose**

The Association of State Correctional Administrators [ASCA] recognizes the importance and challenges associated with managing inmates who pose a serious threat to staff, other inmates or to the safe and orderly operation of correctional facilities. The use of restrictive housing is a necessary tool for correctional systems to utilize to ensure a safe environment for staff and inmates. ASCA is committed to the universal classification principle of managing inmates in the least restrictive way necessary to carry out its mission.

As a result, ASCA established a sub-committee for the purpose of creating guiding principles that might be used by member agencies for the purpose of developing policies related to restrictive status housing. ASCA recognizes that individual jurisdictions have specific issues, unique legislation, judicial orders, and varying physical plant configurations that must be considered locally and addressed by policies specific to those individual jurisdictions. Based on the complexity of managing this population, some universal principles provide this general framework for agencies in the development of their policies. We hope this document is helpful to jurisdictions in designing policies to safely manage this population in a manner that promotes their positive transition to less restrictive settings while supporting an environment where other inmates may safely and actively participate in pro-social programs and activities.

### **Defining Restrictive Housing**

Restrictive status housing is a term used by correctional professionals to encompass a larger number of agency specific nomenclatures. In general terms, restrictive status housing is a form of housing for inmates whose continued presence in the general population would pose a serious threat to life, property, self, staff or other inmates, or to the security or orderly operation of a correctional facility. This definition does not include protective custody. Restrictive status housing is designed to support a safe and productive environment for facility staff and inmates assigned to general population as well as to create a path for those inmates in this status to successfully transition to a less restrictive setting.

# ASSOCIATION OF STATE CORRECTIONAL ADMINISTRATORS

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## **Guiding Principles for Restrictive Status Housing**

The following guiding principles for the operation of restrictive status housing are recommended for consideration by correctional agencies for inclusion in agency policy. They are to:

1. Provide a process, a separate review for decisions to place an offender in restrictive status housing;
2. Provide periodic classification reviews of offenders in restrictive status housing every 180 days or less;
3. Provide in-person mental health assessments, by trained personnel within 72 hours of an offender being placed in restrictive status housing and periodic mental health assessments thereafter including an appropriate mental health treatment plan;
4. Provide structured and progressive levels that include increased privileges as an incentive for positive behavior and/or program participation;
5. Determine an offender's length of stay in restrictive status housing on the nature and level of threat to the safe and orderly operation of general population as well as program participation, rule compliance and the recommendation of the person[s] assigned to conduct the classification review as opposed to strictly held time periods;
6. Provide appropriate access to medical and mental health staff and services;
7. Provide access to visiting opportunities;
8. Provide appropriate exercise opportunities;
9. Provide the ability to maintain proper hygiene;
10. Provide program opportunities appropriate to support transition back to a general population setting or to the community;
11. Collect sufficient data to assess the effectiveness of implementation of these guiding principles;
12. Conduct an objective review of all offenders in restrictive status housing by persons independent of the placement authority to determine the offenders' need for continued placement in restrictive status housing; and
13. Require all staff assigned to work in restrictive status housing units receive appropriate training in managing offenders on restrictive status housing status.



24-15A-32. Establishment of initial parole date--Calculation of parole date--Certain crimes deemed violent for purposes of parole--Minimum time to be served . Each inmate sentenced to a penitentiary term, except those under a sentence of life or death, or determined to be ineligible for parole as authorized in § 24-15A-32.1, shall have an initial parole date set by the department. This date shall be calculated by applying the percentage indicated in the following grid to the full term of the inmate's sentence pursuant to § 22-6-1. The following crimes or an attempt to commit, or a conspiracy to commit, or a solicitation to commit, any of the following crimes shall be considered a violent crime for purposes of setting an initial parole date: murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first degree or burglary in the second degree if committed before July 1, 2006, arson, kidnapping, felony sexual contact as defined in §§ 22-22-7 and 22-22-19.1, child abuse, felony sexual contact as defined in § 22-22-7.2, felony stalking as defined in §§ 22-19A-2 and 22-19A-3, photographing a child in an obscene act, felony assault as defined in § 22-18-26, felony simple assault as defined in § 22-18-1, commission of a felony while armed as defined in §§ 22-14-12 and 22-14-13.1, discharging a firearm at an occupied structure or motor vehicle as defined in § 22-14-20, discharging a firearm from a moving vehicle as defined in § 22-14-21, criminal pedophilia as defined in § 22-22-30.1, threatening to commit a sexual offense as defined in § 22-22-45, abuse or neglect of a disabled adult as defined in § 22-46-2, and aggravated incest as defined in §§ 22-22A-3 and 22-22A-3.1:

Felony Convictions			
Felony Class	First	Second	Third
Nonviolent			
Class 6	.25	.30	.40
Class 5	.25	.35	.40
Class 4	.25	.35	.40
Class 3	.30	.40	.50
Class 2	.30	.40	.50
Class 1	.35	.40	.50
Class C	.35	.40	.50
Violent			
Class 6	.35	.45	.55
Class 5	.40	.50	.60
Class 4	.40	.50	.65
Class 3	.50	.60	.70
Class 2	.50	.65	.75
Class 1	.50	.65	.75
Class C	.50	.65	.75
Class B	1.0	1.0	1.0
Class A	1.0	1.0	1.0

Each inmate shall serve at least sixty days prior to parole release. Inmates with life sentences are not eligible for parole. An initial parole date through the application of this grid may be applied to a life sentence only after the sentence is commuted to a term of years. A Class A or B felony commuted

to a number of years shall be applied to the Class C violent column of the grid. An inmate convicted of a Class A or B felony who was a juvenile at the time of the offense and receives a sentence of less than life shall be applied to the Class C violent column of the grid.

**Source:** SL 1996, ch 158, § 31; SL 2001, ch 126, § 1; SL 2004, ch 168, § 71; SL 2006, ch 117, § 2; SL 2006, ch 121, § 14; SL 2007, ch 141, § 2; SL 2007, ch 153, § 2; SL 2012, ch 136, § 1; SL 2013, ch 105, § 3; SL 2013, ch 116, § 2.

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## RTV PAROLE VIOLATION SEVERITY SCALE

If the violation is not included in this table, the case should be staffed by the area supervisor to determine the appropriate Severity Level.

AGREEMENT CONDITION	PAROLEE BEHAVIOR				Risk Level/Response Range		
	Ind	Min	Med	Max	Int		
1 - All laws	VS	VS	VS	VS	VS	VS	
1 - All laws	V	V	V	V	V	V	
1 - All laws	SR	H	H	H	H	H	
1 - All laws	SR	M	M	M	M	M	
1 - All laws	I	I	M	M	M	M	
1 - All laws	I	L	M	M	M	M	
2 - Drugs	SR	H	H	H	H	H	
2 - Drugs	I	M	H	H	H	H	
2 - Drugs	H	H	H	H	H	H	
2 - Drugs	SR	L	M	M	M	M	
2 - Drugs	I	L	M	M	M	M	
2 - Drugs	SR	M	H	H	H	H	
2 - Drugs	H	H	H	H	H	H	
2 - Drugs	I	L	M	M	M	M	
2 - Drugs	I	I	I	I	I	I	
3 - Gambling	I	I	I	I	I	I	
4 - Weapons	SR	H	H	H	H	H	
4 - Weapons	SR	M	M	M	M	M	
4 - Weapons	SR	H	H	H	H	H	
5 - Search and Seizure	I	I	I	I	I	I	
6a - Advance Approval	I	I	I	I	I	I	
6b - Advance Approval	I	I	I	I	I	I	
6c - Advance Approval	I	I	I	I	I	I	
6d - Advance Approval	I	I	I	I	I	I	
6d - Advance Approval	I	I	I	I	I	I	
6e - Advance Approval	I	I	I	I	I	I	
7 - Companions/hours	I	I	I	I	I	I	
7 - Companions/hours	I	I	I	I	I	I	
8 - Keep agent informed	V	V	V	V	V	V	
8 - Keep agent informed	SR	I	I	I	I	I	
8 - Keep agent informed	H	H	H	H	H	H	
9 - Agent Visitation of Home/Work	I	L	L	M	M	M	
10 - Comply/cooperate/truthfully	I	I	M	M	M	M	
10 - Comply/cooperate/truthfully	I	I	M	M	M	M	
10 - Comply/cooperate/truthfully	I	L	L	M	M	M	



AGREEMENT CONDITION	PAROLEE BEHAVIOR	Risk Level/Response Range				
		Ind	Min	Med	Max	Int
10 - Comply/cooperate/truthfully	Failure to Comply with Imposed Sanctions (once in 90 days)	I	L	M	H	H
10- Comply/cooperate/truthfully	Failure to Comply with Imposed Sanctions (multiple occurrences in 90 days)	SR	M	H	H	H
10 - Comply/cooperate/truthfully	Failure to Follow Orders/Directions	I	L	L	M	M
10 - Comply/cooperate/truthfully	Deliberate Pattern of Non-compliance	I	M	H	H	H
11 - Opportunities/employment/support	Failure to Maintain Employment	I	L	M	H	H
11 - Opportunities/employment/support	Being Financially Irresponsible	I	L	L	M	M
13a - Consume, purchase, possess alcohol	Failure to Submit to a PBT	SR	H	H	H	H
13a - Consume, purchase, possess alcohol	Positive PBT -- < (Less than) .08 % BAC /Possession or Purchase of Alcohol	SR	L	M	M	H
13a - Consume, purchase, possess alcohol	Positive PBT -- > (Greater Than) .08% BAC	SR	M	H	H	H
13b - Entering an Establishment	Entering an Establishment	I	L	L	L	M
13c - Payments	Failure to Pay Restitution/Just Debts/Supervision Fees	I	L	L	L	L
13e - Participate/complete programs	Failing to Participate in Treatment Programs	I	L	M	H	H
13e - Participate/complete programs	Removal from Sex Offender Treatment Programs	SR	SR	SR	SR	SR
13e - Participate/complete programs	Removal from a Parole Board Ordered Placement	V	V	V	V	V
13f - Pornography	Use, viewing, purchasing, possessing pornography	I	I	M	M	M
14 - Violent behavior/stalking/threats	Assaultive, abusive, violence, stalking, threats (No actual assault committed)	SR	M	M	H	H
14 - Violent behavior/stalking/threats	Act of violence actually committed	SR	H	H	H	H

## RTV PAROLE VIOLATION SANCTION SCALE

Informal Response: Agent addressed violation/behavior and provided direction and response; no AVS is completed; OR Responses are limited to those listed in the "Low Response" column unless an override is requested and approved by supervisor in which case the behavior and response is recorded as an AVS Supervisor Review Response: Agent and Supervisor review case to determine if 1) Formal sanctioning is necessary and applicable; 2) The appropriate response range of sanctions to apply Violation Staffing Response: Supervisor and Director of Field Services review the case to determine if the supervising agent should issue a High Sanction in the form of a Containment Plan or if the agent should initiate the revocation process				
LOW RESPONSE	MEDIUM RESPONSE	HIGH RESPONSE	HIGH RESPONSE REQUIRING SUPERVISOR'S APPROVAL	VIOLATION
-Verbal Reprimand -Apology Letter -Book Reports -Daily Log/Report Writing -Written Reprimand by Agent -Curfew – 30 days or less -Increase AA/NA/GA meetings -Travel Restrictions – 30 days or less -Loss of Driving Privileges -Loss of Computer/Gaming Devices -Increased Contact with Agent	-Intensive AA/NA/GA attendance (weekly) -Additional Drug Testing -Anger Management Classes -Community Services Work -Adjustment in Contacts -Counseling from a Community Agency -Travel Restrictions – Over 30 days -Verbal/Written Reprimand by Regional Supervisor -Curfew – over 30 days -House Arrest – 30 days or less -Electronic Monitoring – 30 days or less -Drug/Alcohol Assessment/Aftercare -24/7 / PBTs/ Remote Breath - 30 days or less	-Drug/Alcohol Treatment -Cognitive Based Therapy -Jail/Detention* -Day Reporting -Travel Restrictions – specific limitations -Continuous Drug Testing -Administrative hearing with Director of Parole -Case Transfer -House Arrest over 30 days -Electronic Monitoring – over 30 days -24/7 /PBTs/ SCRAM/Remote Breath – over 30 days -Domestic Violence Programming *mandatory in felony level drug use	-Jail/Detention (supervisor's extension) -Extended Detainment -CTP Placement -Halfway House Placement - Electronic Monitoring – as part of a Containment Plan	-Violation -Violation with Reinstatement and Loss of Street Time



## RTV PAROLE VIOLATION SANCTION DESCRIPTIONS

### RESPONSE RANGE - LOW

#### **Verbal Reprimand:**

Counseling or a reprimand is the most common response to a minor violation of parole. It involves confronting the parolee with the apparent violation, listening to his or her side of the story, and delivering a stern admonition or warning.

#### **Apology Letter:**

An apology letter is most appropriate for a minor violation of parole where the parolee has been inconsiderate of another person through being late for appointments, forgetting appointments or other inconsiderate actions where proper social etiquette would warrant an apology.

#### **Book Reports:**

Requires a parolee to read a book and write a report on the contents of the book which has two consequences. The parolee will be spending time at home rather than on the streets and he/she may learn something from the book.

#### **Daily Log/Letter Writing:**

The requirement to keep a daily log or to write a daily/weekly/monthly letter is a continual reminder to the parolee that the parole agent will be monitoring their behavior and provides ongoing reinforcement of appropriate behavior.

#### **Written Reprimand by Agent:**

A written reprimand is used when a verbal reprimand has not been effective. A written reprimand has the additional benefit of putting in writing exactly what the problem is and exactly what needs to be done to change the behavior that is causing a violation of the conditions of the parole agreement.

#### **Curfew – 30 days or less:**

This may be an effective sanction for individuals that need to be at their place of residence vs. being on the streets, out late and not able to get up in the mornings for work or other reporting requirements. Restriction of the time spent in the community protects the community from the parolee and keeps the parolee from a negative peer group on the streets.

#### **Increase Meetings for AA/NA/GA:**

Increasing the number of scheduled meetings for chemical dependency/addictive behavior programming has the dual effect of keeping parolees very busy and forcing them to associate with a group of citizens who are controlling their chemical dependency. This sanction should be used for parolees who have had a minor relapse or who have had a more major relapse but have had a long period of sobriety prior to their relapse.

#### **Travel Restrictions – 30 days or less:**

This may be an effective sanction for parolees who frequently travel to meet family and friends in the state or who often travel to larger cities for entertainment or shopping.

#### **Loss of Driving Privileges:**

This may be an effective sanction for parolees who are spending time joy riding and getting minor traffic tickets.

#### **Loss of Computer/Gaming Devices:**

This may be an effective sanction for those individuals that tend to spend too much time playing computer games, or on the Internet when they should be working, looking for work or engaged in programming.

#### **Case Staffing**

This may be an effective sanction for those individuals that have good community support structures but are struggling. A case staffing with family members (mom, dad, spouse), members of the clergy, counselors, the agent, agent supervisor or others that may be offering support or structure in the community to assist the parolee with understanding and changing their behaviors.

#### **Increased Contact with Agent:**

For the parolee who commits minor violations such as not keeping appointments or finding full-time employment, an effective strategy is to increase his or her reporting requirements to multiple times per week.

## RESPONSE RANGE – MEDIUM

### **Intensive AA/NA/GA Attendance (Weekly):**

Extensive attendance of chemical dependency/addictive behavior programming has the dual effect of keeping parolees very busy and forcing them to associate with a group of citizens who are controlling their chemical dependency addiction. This sanction should be used for parolees who have had a minor relapse or who have had a more major relapse but have had a long period of sobriety prior to their relapse.

### **Additional Drug Testing:**

An increase in drug testing is designed to keep a parolee on notice that they cannot use chemicals without being caught and violated. Additional drug testing can be done by means of UAs or a Chemical Drug Patch. This sanction is most often used when a parolee has an extensive background in using chemicals or after a parolee has had a positive UA.

### **Anger Management Classes:**

The sanction is to be used when parolees are using anger to control others or are allowing anger to control their behavior and do not understand how their anger could effect the violation of the conditions of their parole.

### **Community Service Work (CSW):**

Community service work is an appropriate sanction to use as punishment or a means of holding a parolee accountable for an administrative violation of the conditions of parole. CSW can serve as a meaningful sanction for dealing with a broad range of violations such as not reporting as scheduled, failure to maintain employment, failure to follow through on treatment, failure to follow through on education or failure to follow through on attendance for other programs

### **Adjustment in Contacts:**

For the parolee who has demonstrated multiple minor violations such as not keeping appointments or finding full-time employment, an effective strategy is to increase his or her reporting requirements to multiple times per week.

### **Counseling from a Community Agency:**

Counseling should be used as a sanction when a parolee has mental health issues that are causing him/her problems that may eventually effect violation of a condition of parole or when a condition of parole has been violated but the parolee's mental health are exacerbating their problems.

### **Travel Restrictions – over 30 days:**

This may be an effective sanction for parolees who have demonstrated the inability to control travel to meet family and friends in the state or who often travel to larger cities for entertainment or shopping.

### **Verbal/Written Reprimand from Regional Supervisor:**

A verbal/written reprimand from the Regional Supervisor is used when a verbal/written reprimand by the agent has not been effective. Note: A written reprimand has the additional benefit of putting in writing exactly what the problem is and exactly what need to be done to change the behavior that is causing a violation of the conditions of the parole agreement.

### **Curfew – longer than 30 days:**

This may be an effective sanction for individuals that need to be at their place of residence vs. being on the streets, out late and not able to get up in the mornings for work or other reporting requirements. Restriction of the time spent in the community protects the community from the parolee and keeps the parolee from a negative peer group on the streets

### **House Arrest – 30 days or less:**

An assignment to house arrest limits the parolee's contact with the community and the peer group which may be causing adjustment problems

### **Electronic Monitoring – 30 days or less:**

A parolee who needs to be monitored closely because of a failure to comply with conditions should be considered for electronic monitoring. Electronic monitoring reduces the parolee's risk to the community and likelihood of committing new violations. A period of 30 days or less should be specified. Electronic Monitoring can include a GPS unit that is placed on the ankle or an app downloaded to a smart phone with GPS and check-in capabilities.



**Drug/Alcohol Assessment/Aftercare:**

A parolee with a history of substance abuse problems and recent drug use should be referred to a designated program for screening only after the agent has made aftercare referrals, increased testing, and used other intermediate sanctions without success. Curfews, frequent contacts, mandatory aftercare and regular substance abuse testing are all part of the aftercare protocol.

**24/7 / Daily PBT's / Remote Breath/ 30 Days or Less:**

This sanction is most often used when a parolee has a history of alcohol abuse problems and recent alcohol use. It is designed to keep a parolee on notice that they cannot use alcohol without being caught and violated. Remote Breath, which is a portable breath alcohol device with automated facial recognition that provides point-in-time results, reporting and GPS mapping with each test, may be used when deemed appropriate and applicable.

**RESPONSE RANGE - HIGH**

**Drug/Alcohol Treatment:**

A parolee with a history of substance abuse problems and recent drug/alcohol use should be referred to a designated program only after the agent has made treatment referrals, increased urine testing, and used other intermediate sanctions without success. Curfews, frequent contacts, mandatory treatment and regular substance abuse testing are all part of the treatment protocol.

**Cognitive Based Therapy:**

This sanction is to be used when parolees are using criminal thinking to excuse their behavior and do not understand how their thinking is effecting their violation of the conditions of their parole.

**Jail/Detention:**

The imposition of jail/detention time should be used in cases where parolees have willfully and consistently failed to abide by the conditions and regulation of parole and other less severe sanctions have been unsuccessful or would significantly detract from the seriousness of the situation. Jail time should also be used when a parolee is a threat to himself or public safety due to drug or alcohol intoxication. Detention can also be utilized to formulate a new case plan for an offender – seek and determine placement options, treatment options, and sanctions. Jail/Detention should not exceed 5 working days.

Note: A Parole Agent can detain an offender, even if such action would fall outside the designated Response Range for such action, without the prior approval of a supervisor, in the event the agent believes it is necessary to: prevent absconding; or when the behavior and attitude of the parolee constitutes a threat or danger to the parolee and/or the community, and it is necessary to provide proper protection for the parolee and/or to the community; or, more information is necessary to determine specifically what violations of supervision conditions may have taken place, the current supervision level of the parolee, etc., as is often the case with after-hours contacts with law enforcement regarding a parolee or situation. Once the necessary information is gathered, an appropriate sanction, or violation, if warranted, can and should be administered as soon as possible. The detention, in these cases, may or may not be considered part of the sanction, depending on the outcome of the investigation.

Note: Jail/Detention is mandatory in cases where an offender admits to using a controlled substance, has a UA positive for a controlled substance, or refuses/fails to produce a UA. The length of the detention can be determined by the supervising Parole Agent, but should not exceed 5 working days without prior approval of the Regional Supervisor.

Exceptions to the mandatory jail/detainment can include 1) offenders that are currently a resident in a halfway house or treatment facility if jailing the offender will result in the offender losing his/her reserved bed/treatment spot; 2) offenders that have medical issues that cannot be accommodated in a jailing facility or the offender's medication regime will be interrupted due to detainment; 3) Jails are not able to accommodate the detainment (ie – no space available); or 4) Law Enforcement requests the offender to remain in the community due to an on-going investigation.. All exceptions, including scenarios not outlined here, must be approved by the supervisor.

**Day Reporting:**

Requiring a parolee to participate in an electronic monitoring program or report to his agent or other designated program, person or facility daily allows the agent to check on the parolee's sobriety, drug usage and/or employment status. Parolees under this sanction should be deterred from further violation of the condition of their parole agreement by the increased risk of discovery of behavior that violates his/her parole agreement and should, over time, develop a very close relationship with his/her parole agent

**Travel Restrictions – Specific Limitation:**

This may be an effective sanction for parolees who have demonstrated the inability to control their traveling activities. They have demonstrated through continued travel either in state or out-of-state, meeting family and friends or traveling to larger cities for entertainment, recreation or shopping.

**Continuous Drug Testing:**

Continuous drug testing may be an effective sanction for the parolee that has demonstrated problems with alcohol or drugs. It puts the parolee on notice that they cannot use chemicals without being caught and violated. This sanction is most often used when a parolee has an extensive background in using chemicals or after a parolee has had a positive UA. This can be twice weekly testing by the supervising parole agent, 24/7 testing, or drug patch.

**Administrative Hearing with Director of Parole (Verbal/Written Reprimand):**

A scheduled personal appearance of the parolee, the supervising agent and the director. This verbal/written reprimand has the additional benefit of putting the parolee on notice that their behavior is very close to a violation. An administrative hearing leaves no doubt that a further violation of the conditions of the parole will result in a violation of his/her parole.

**Case Transfer:**

This may be an effective sanction for parolees who cannot adjust to a specific community, have victims in the community, cannot find or maintain work, cannot avoid negative contact with companions, gangs or who need programming that is not available within the community they are residing.

**House Arrest – over 30 days:**

An assignment to house arrest limits the parolee's contact with the community and the peer groups, which may be causing adjustment problems. This sanction would be used where the parolee has clearly demonstrated that less restrictive measures are not preventing the parolee from violating the conditions of the community supervision agreement.

**Electronic Monitoring –over 30 days:**

A parolee who needs to be monitored closely because of a failure to comply with conditions should be considered for electronic monitoring. Electronic monitoring reduces the parolee's risk to the community and likelihood of committing new violations.

**24/7 / Daily PBT's / SCRAM / Remote Breath/ over 30 Days:**

This sanction is most often used when a parolee has a history of alcohol abuse problems and recent alcohol use. It is designed to keep a parolee on notice that they cannot use alcohol without being caught and violated. SCRAM (24 hour a day electronic monitoring for alcohol use), where and when available, will be implemented in areas where the 24/7 Program is not available or in situations where the agent believes constant monitoring for alcohol use is necessary. Remote Breath, which is a portable breath alcohol device with automated facial recognition that provides point-in-time results, reporting and GPS mapping with each test, may be used when deemed appropriate and applicable.

**Domestic Violence Programming**

Domestic Violence Programming will be used as a sanction when an offender had been charged or suspected of perpetrating domestic violence. Domestic Violence programming will help the offender address the issues of power and control.



## RESPONSE RANGE – HIGH REQUIRING SUPERVISOR’S APPROVAL

### **Jail/Detention (supervisor’s extension)**

Detainments will need the Regional Supervisor’s approval should the detention period go longer than 5 working days. The Regional Supervisor can approve up to another 5 working days. The imposition of jail/detention time should be used in cases where parolees have willfully and consistently failed to abide by the conditions and regulation of parole and other less severe sanctions have been unsuccessful or would significantly detract from the seriousness of the situation. Jail time should also be used when a parolee is a threat to himself or public safety due to drug or alcohol intoxication. Detention can also be utilized to formulate a new case plan for an offender – seek and determine placement options, treatment options, and sanctions.

### **Extended Detainment**

If the time needed for a detainment exceeds the allotted 5 extra working days approved by the Regional Supervisor, the supervising Parole Agent can request an extended detainment through the Regional Supervisor. If the Regional Supervisor supports this request, the Regional Supervisor will forward the request to the Executive Director. The imposition of jail/detention time should be used in cases where parolees have willfully and consistently failed to abide by the conditions and regulation of parole and other less severe sanctions have been unsuccessful or would significantly detract from the seriousness of the situation. Jail time should also be used when a parolee is a threat to himself or public safety due to drug or alcohol intoxication. Detention can also be utilized to formulate a new case plan for an offender – seek and determine placement options, treatment options, and sanctions. Extended Detainments, in addition to the situations mentioned, can also be utilized to confine offenders being charged with a new crime(s) and who are under court jurisdiction prior to conviction, to determine whether a violation report will be submitted. Those on extended detainment on any day of a given month are not eligible to receive Earned Discharge Credits (EDC’s) for that month, as they are no longer considered as being “in the community”.

### **Community Transition Program:**

An assignment to the CTP program allows a parolee to be removed from the community for a period of time to deal with the relapsing behavior and make appropriate plans to deal with the behavior when he/she returns to the community. This sanction is most often used when a parolee has an extensive background in chemical abuse or after a parolee has had multiple positive UAs..

### **Halfway House Placement:**

An assignment to a halfway house allows a parolee to be removed from the community for a period of time to deal with the relapsing behavior and make appropriate plans to deal with the behavior when he/she returns to the streets. This sanctions most often used when a parolee has an extensive background in using chemicals or after a parolee has had multiple positive UAs.

### **Electronic Monitoring – as part of Containment Plan:**

A parolee who is pending a felony and placed on a containment plan as approved by the Regional Supervisor. Electronic Monitoring reduces the parolee’s risk to the community and likelihood of committing new violations.

## RESPONSE RANGE - VIOLATION

### **Violation with reinstatement and loss of street time**

This sanction involves completing the violation process before the parole board with a recommendation from the agent and a decision of the board to take some or all of the parolee’s street time and then reinstate parole.

### **Violation**

A recommendation to violate parole is the final and most serious sanction available.