

SB 11-176 Annual Report: Administrative Segregation for Colorado Inmates

Introduction

This annual report outlines the use of administrative segregation for inmates within the Colorado Department of Corrections (CDOC) pursuant to Senate Bill (SB) 11-176, which states:

On or before January 1, 2012, and each January 1 thereafter, the executive director shall provide a written report to the Judiciary Committees of the Senate and House of Representatives, or any successor committees, concerning the status of administrative segregation; reclassification efforts for offenders with mental illness or developmental disabilities, including duration of stay, reason for placement, and number and percentage discharged; and any internal reform efforts since July 1, 2011.

The following sections will describe steps that the CDOC has taken since SB 11-176 was enacted and ongoing efforts to review and modify administrative segregation. The data in this report are through fiscal year (FY) 2012.

Background

Strategic Plan

In April 2011, CDOC began formulating an outcome-based strategic plan with long-term goals and objectives. Recognizing the concerns raised by SB 11-176, the Department identified a strategic initiative to critically examine the policies, procedures, and practices of administrative segregation to make improvements consistent with an independent study and to decrease the number of offenders releasing directly from administrative segregation to parole or the community. This strategic objective included a high-level Deputy Directors' review of all offenders in administrative segregation for appropriate placement and the commission of an independent analysis of administrative segregation policies, procedures, and practices with the support of the National Institute of Corrections (NIC), U.S. Department of Justice. The analysis would be conducted by Dr. James Austin, founder of the JFA Institute and a nationally recognized expert in correctional classification systems, and Emmitt Sparkman, Deputy Commissioner of the Mississippi Department of Corrections and an expert in administrative segregation practices.

The objective of the NIC analysis was to ensure that administrative segregation beds are used to house the most dangerous and disruptive inmates in Colorado's prison system. Specifically, the anticipated end results would include

- appropriately placing inmates in administrative segregation;
- maintaining consistency with the current correctional standards for the use of administrative segregation;
- appropriately transitioning administrative segregation inmates to the community and to lower custody levels;
- using appropriate programs, philosophies, and practices;
- receiving the NIC report on or about November 19, 2011;
- reviewing and assessing the recommendations on or about December 31, 2011;
- implementing approved recommendations (over approximately 12 months);

- conducting an internal analysis of the offenders with mental illness (OMI) program within administrative segregation and implementing recommendations.

Subsequent to implementation of the administrative segregation strategic initiative, CDOC's related key performance indicators identified in the 2012-2013 Strategic Plan revealed favorable outcomes. The goal of decreasing the percentage of offenders classified as administrative segregation by 5% in FY 2012 was exceeded, with a final measure of 4.6% of the total offender population housed in this classification status as of June 2012, compared to 6.8% in June 2011 (see Figure 1). The key performance metric to reduce the percent of offenders released from administrative segregation directly to parole or the community from 47% to 41% in FY 2012 also was substantially exceeded, with a final figure of 23% (see Figure 2). Although the strategic objective related to administrative segregation was completed as drafted in 2011, oversight of this major initiative will continue.

Figure 1. Administrative Segregation Population

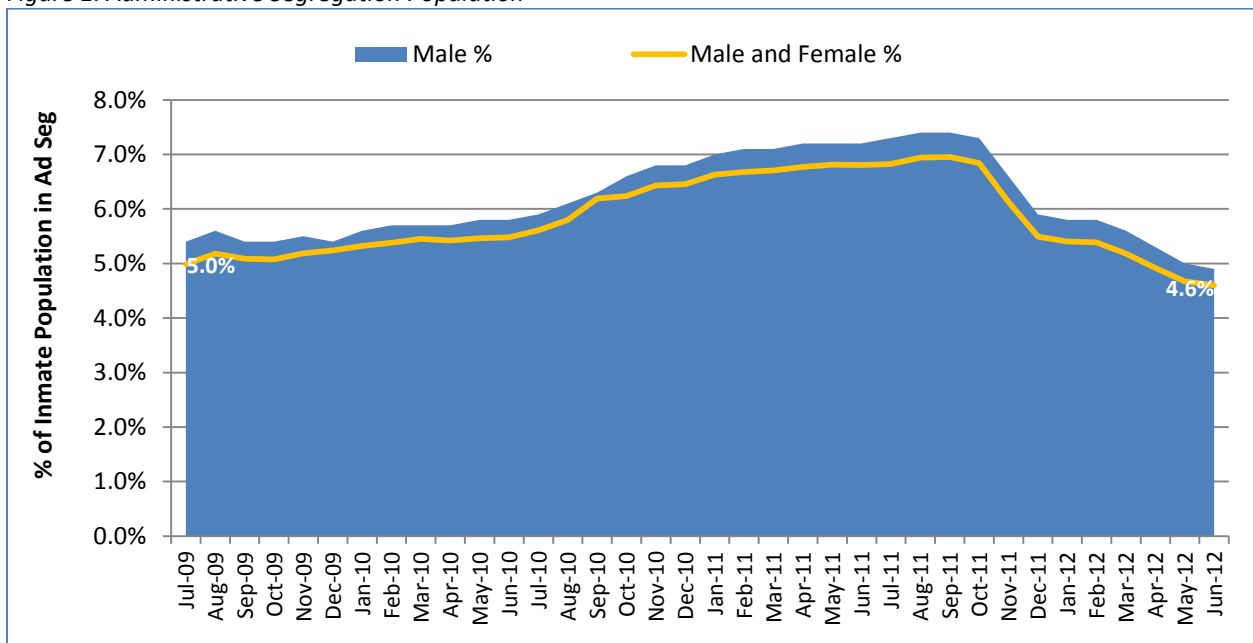
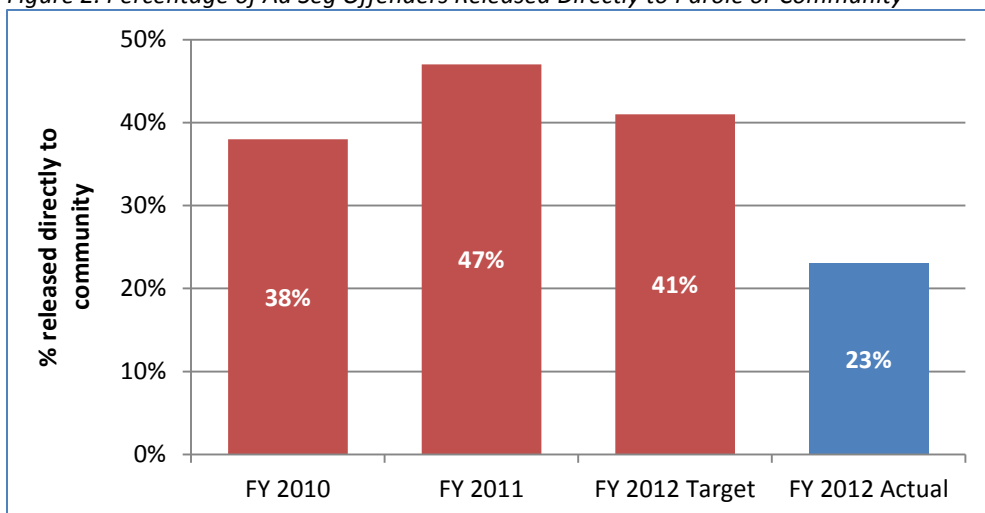


Figure 2. Percentage of Ad Seg Offenders Released Directly to Parole or Community



Deputy Director Reviews

Prior to the completion of the NIC study, a multidisciplinary working group was formed to meet the requirements of SB 11-176. Executive Director Tom Clements issued Executive Directive 28-11, which required the Deputy Directors of Prison Operations to review all administrative segregation offenders who had been at that classification for more than 1 year. Offenders participate in a face-to-face interview with at least one of the CDOC deputy directors, a facility case manager, a mental health staff member, and an intelligence officer. (Wardens also helped conduct some of the initial reviews.) Based on the information gathered, offenders are recommended for one of the following: 1) direct release to the general population, 2) progression to Level IV A (cognitive programming, in preparation for transitioning to the general population), 3) progression to Level IV B (long-term administrative segregation, determined solely by the director of prisons), 4) placement or retention in the Offenders with Mental Illness (OMI) program, 5) transfer to protective custody, or 6) retention in administrative segregation. Decisions are based on a number of factors, including the number of administrative segregation placements (and placements due to Security Threat Group [STG] activity), protective custody concerns, the number of Code of Penal Discipline (COPD) convictions in the previous 2 years, the number of assault convictions, program completions (e.g., high school diploma, General Education Diploma, and cognitive education), STG membership, mandatory release date, and OMI level.

Table 1 below shows the number of deputy director reviews conducted from August 2011 through June 30, 2012. As of June 2012, 510 offenders were recommended for release and 472 of those progressed to the general prison population. The remaining 38 were still awaiting transition at the end of the fiscal year.

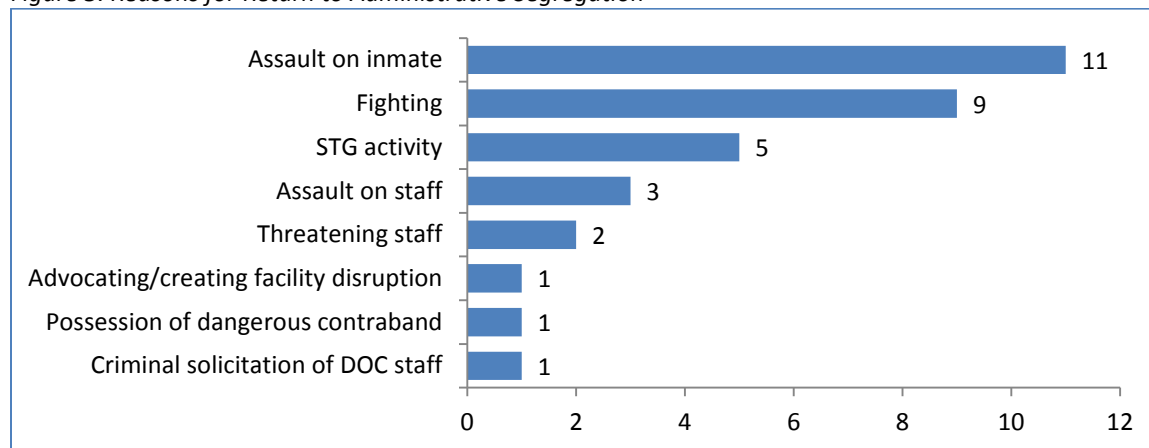
Table 1. Deputy Directors' Decisions by Month

	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	Grand Total
Move to GP		4	6	33	9	8		10	10	5	3	88
T4C/STAR/PRP*	15	44	43	123	40	21	21	13	28	10		358
Level 4A										12	18	30
Level 4B										1		1
PC Unit	2	2	6	17			1	1	4	1		34
Recommend CSP OMI program	9	13	23	40	7	3	6	7	4	1	2	115
Retain in CSP OMI program	12	16	26	53	1	3		4	4	2	1	122
Refused to attend – retain in ad seg										2	2	4
Retain in ad seg	36	38	59	161	28	6	16	21	14	16	10	405
Grand total	74	117	163	427	85	41	44	56	64	50	36	1,157

*T4C = Thinking for a Change, STAR = Security Threat Administrative Review, PRP = Prerelease Program

Of 472 offenders who transitioned from administrative segregation, 33 had returned to administrative segregation by June 30. Figure 3 displays the primary reasons that offenders were returned. Three offenders were returned to administrative segregation for staff assaults: one for throwing a food tray and liquid at an officer and threatening to physically harm multiple staff; a second for spitting on staff and threatening to kill a nurse, after six recent COPD charges due to assaultive behavior; and a third for throwing food at staff, engaging in sexual misconduct toward staff, and having a history of 48 incident reports in 6 months, causing risk to staff and the offender population. One offender was placed in administrative segregation for criminal solicitation of DOC staff (i.e., extortion) by corresponding via mail and calling the staff member at home from the facility.

Figure 3. Reasons for Return to Administrative Segregation



NIC Study

In August 2011, Dr. Austin and Mr. Sparkman met with CDOC executive staff and senior management, as well as external stakeholders; conducted site visits to facilities with administrative segregation programs; and collected relevant data for their analysis. The report noted that offenders in regular administrative segregation (those not in the OMI program) do not receive reduced security procedures as they progress within three Quality of Life (QOL) behavioral levels, and even at the highest privilege level must be in restraints and escorted by staff outside their cells. Although an offender can become eligible for release by completing designated cognitive learning programs, such completion does not guarantee release and the availability of treatment programs is limited. The report concluded that an offender in CDOC administrative segregation could be held indeterminately under strict security despite positive behavior that warranted maximum privileges. The recommendations of this independent analysis (detailed later in this report), released in October 2011, have been adopted in full and incorporated in Department policy to provide more consistent, evidence-based practices related to the use of administrative segregation.

Policy Changes

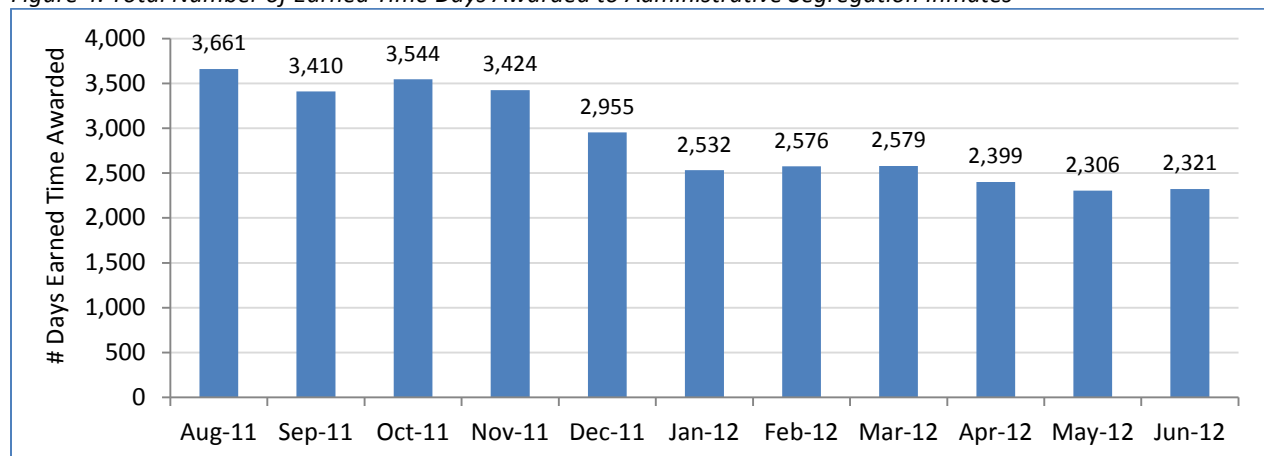
Administrative Regulation (A.R.) 650-03, Administrative Segregation (previously A.R. 600-2), was finalized following the NIC study, including implementation of recent changes in statutory language regarding STGs (Colorado Revised Statute [C.R.S.] 17-1-109). Administrative segregation status may be warranted for offenders newly admitted to DOC if their behavior while detained prior to arrival constituted a serious security threat or when other factors justify consideration for administrative

segregation upon admission. Any offender recommended for administrative segregation upon admittance will be reviewed by Offender Services and the Director of Prisons to determine if that is an appropriate placement. Behavior warranting administrative segregation review after admission to DOC includes assaults, organizing a riot, possessing deadly weapons or dangerous drugs, engaging in STG conduct, and a previous escape or attempted escape from a secure correctional facility. If offenders are placed in administrative segregation, their progress will be monitored monthly and they will have the opportunity to progress through distinct levels (I, II, III, IVA, and IVB) to the general population, typically within 9 months. Upon initial placement in administrative segregation, offenders are assigned to Level II.

Among other policy changes, per SB 11-176 and C.R.S. 17-22.5-302, inmates in administrative segregation for 90 days are eligible to receive earned time if they meet criteria developed by the department regarding good behavior and participation in programs. An executive directive was issued to A.R. 550-12 Earned Time to address the earned time criteria. Administrative segregation offenders must be at privilege level III or above to receive earned time. Maximum awards are 1 day for work and training (including attendance, promptness, performance, cooperation, care of materials, and safety); 2 days for progress toward program goals; and 2 days for group living (including housekeeping, personal hygiene, cooperation, social adjustment, and double bunking, if applicable).

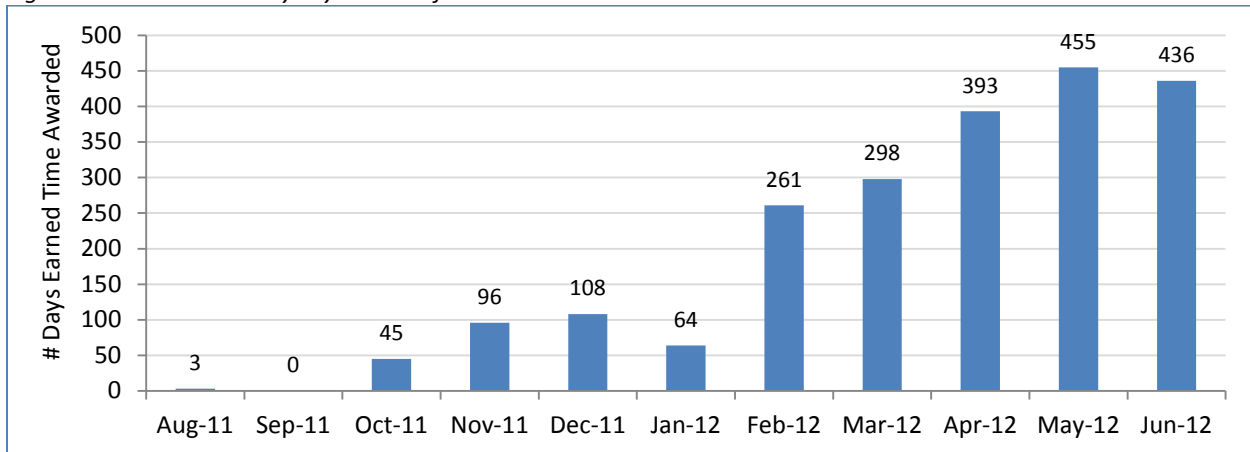
See Figure 4 for a tally of earned time days awarded to administrative segregation offenders between August 2011 and June 2012. Two items are important to note. First, savings cannot be attributed to the mere award of earned time; an offender must first release from prison in order to realize potential savings from a reduced sentence. Figure 5 shows the actual amount of reduced bed days that can be attributed directly to the early release of offenders during FY 2012. Based on the earned time awarded during FY 2011-12, there is approximately \$195,000 in savings, and this portion of the savings from the closure of CSP II can be attributed to SB 11-176. The Department requested a \$2.8 million increase in funding for psychiatrists as part of the FY 2013-14 budget request, \$195,000 of which is in conjunction with the savings generated and in accordance with the SB 11-176 requirement to redirect cost savings to “support behavior-modification programs, incentive programs, mental health services or programs, or similar efforts...” (C.R.S. 17-1-113.9(2)).

Figure 4. Total Number of Earned Time Days Awarded to Administrative Segregation Inmates



Note. The decrease in earned time awards coincides with the dramatic decrease in administrative segregation offenders during the year, with the greatest decrease occurring between November and January.

Figure 5. Reduced Bed Days by Month of Inmate Release



Recommendations of NIC Analysis and CDOC Response

Following are recommendations from the NIC study and CDOC's responses, consolidated into key content areas:

Placement in administrative segregation

- **Recommendation:** The criteria for which a person can be admitted to administrative segregation is basically sound but needs to be narrowed to reflect recent developments in Ohio and Mississippi.
 - **CDOC Response:** Current criteria and policy language were changed, effective May 15, 2012
 - **CDOC Response:** Behavior warranting administrative segregation review after admission to CDOC was expanded and now includes:
 - assault and related acts;
 - leading, organizing, or inciting a serious disturbance or riot;
 - conspiring or attempting to introduce or possess dangerous contraband;
 - actively engaging in STG conduct;
 - escaping from a secure correctional facility or any related acts;
 - other circumstances as approved by the director of prisons.
- **Recommendation:** Offenders should be required to first complete punitive segregation and then be reviewed for placement in administrative segregation rather than using administrative segregation as a substitute for punitive segregation.
 - **CDOC Response:** Offenders who have received punitive segregation after a COPD conviction prior to the administrative segregation hearing must complete punitive segregation before commencement of their administrative segregation status.
- **Recommendation:** A mental health review should be required before placement in administrative segregation and monthly thereafter and must be conducted out of cell.
 - **CDOC Response:** Prior to the administrative segregation hearing, a mental health representative will assess the mental health status of the offender and a multidisciplinary team will consider the offender's mental health condition, facility capacity to deliver alternative placement services, the offender's programmatic and other needs, and the safety and security of the staff, offenders, and facility.

- *CDOC Response: While offenders are in administrative segregation, mental health interviews will be conducted every 30 days outside the offender's cell in a location where confidential information will not be overheard.*
- *CDOC Response: While offenders are in administrative segregation, case management staff will have a meaningful contact every 30 days outside the offender's cell.*
- **Recommendation:** The current practice of automatic return to administrative segregation for persons readmitted to prison should be discontinued; cases should be decided on a case-by-case basis.
 - *CDOC Response: Any offender recommended for administrative segregation upon admittance to CDOC will be reviewed by Offender Services and the Director of Prisons to determine if such placement is appropriate.*

Offenders' quality of life (QOL)

- **Recommendation:** Offenders should have a minimum of 30 minutes' out-of-cell contact with their caseworkers per month.
 - *CDOC Response: Offenders placed on administrative segregation status shall be reviewed by their assigned case manager every 7 days for the first 2 months of confinement and every 30 days thereafter outside their cells.*
- **Recommendation:** The current three-level QOL system should be replaced with a four-level system that has specific rules and privileges associated with each 90-day phase, so that the offender could be returned to the general population within 9 months if compliant with the program. (Offenders would start at Level 2.)
 - *CDOC Response: Administrative segregation status consists of a four-level progressive process of increased privileges and decreased security (Levels I, II, III, IVA, and IVB) that is a minimum of 9 months in duration. Offenders' initial placement is at Level II. Most offenders will release to the general population after completing Level IVA unless otherwise indicated by behavior. Level IVB is reserved for offenders who have not been deemed suitable for transition to the general population through internal classification or Deputy Director reviews. Offenders at Level IVB will be reviewed by the director of prisons at 6-month intervals to determine if they are appropriate for progressive movement. At all levels, offenders will be allowed to meet with their case managers out of cell monthly. (The official policy specifies privileges associated with each level, such as requirements for restraints and escorts, canteen purchases, number of noncontact visits and telephone calls, television, congregate day hall activities, programming, and consideration for unit job assignments.)*

Administrative segregation management

- **Recommendation:** The role and influence of the central office regarding who is admitted and released from administrative segregation should be strengthened.
- **Recommendation:** The responsibility for setting regulations and policies governing administrative segregation should rest with Offender Services.
 - *CDOC Response: Central Classification/Offender Services has been designated as the office of primary responsibility for policy and the final authority on who is admitted and released from administrative segregation. See Figures 6 and 7 for the impact of this policy change.*

Figure 6. Monthly average administrative segregation placements by fiscal year

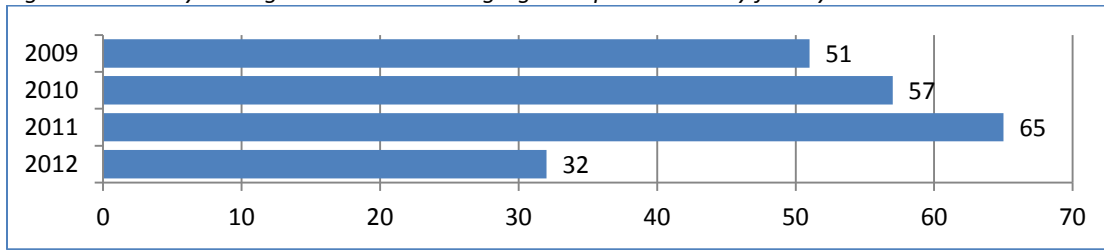
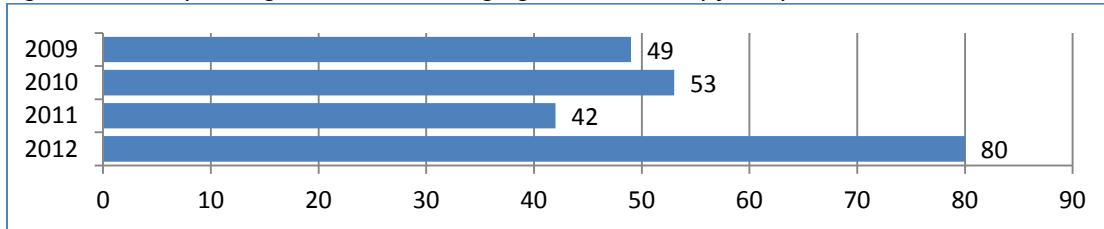


Figure 7. Monthly average administrative segregation releases by fiscal year



Effect of the changes

- **Recommendation:** The above changes will significantly reduce the current administrative segregation population.
 - **CDOC Response:** The Department announced the closure of 316 administrative beds at CCF South (CSP II) on March 19, 2012.
 - **CDOC Response:** Due to declining general population and administrative segregation populations, the CDOC is currently reviewing best scenarios for repurposing beds. Per H.B. 12-1336, the Office of State Planning and Budgeting (OSPB) has contracted with a vendor to conduct a prison utilization study to identify the most appropriate and cost-effective use of public and private inmate beds. Based on the study's results, the OSPB, the Joint Budget Committee, and any advisory group will evaluate prison-bed utilization options for 5 fiscal years, beginning with fiscal year 2013-14. The OSPB will provide the Judiciary Committees with a status report by January 31, 2013.
- **Recommendation:** The reduction in the administrative segregation population would allow the agency to reconfigure the use of Sterling Correctional Facility (SCF), CSP, and Centennial Correctional Facility (CCF).
- **Recommendation:** One scenario would be to concentrate the administrative segregation units at CCF South and North and have CSP and SCF function as close custody general population facilities.
 - **CDOC Response:** The Department has repurposed administrative segregation beds in the following manner:
 - a 64-bed protective custody unit at SCF;
 - a 64-bed transition unit providing NIC's "Thinking for a Change" (T4C) program at SCF;
 - a 126-bed medium custody worker unit at CSP.

Other Reform Efforts

- The Department has increased services in a prerelease and reentry program for offenders who are discharging or paroling directly from administrative segregation and are approximately 6 to 9 months from their mandatory release date (MRD), although every effort is made to ensure

that offenders do not release directly to the community while on administrative segregation status (see Figures 8 and 9). Offenders receive services from an administrative segregation transition specialist and a transition plan is created.

Figure 8. Percentage of Ad Seg Offenders Released Directly to Community by Month

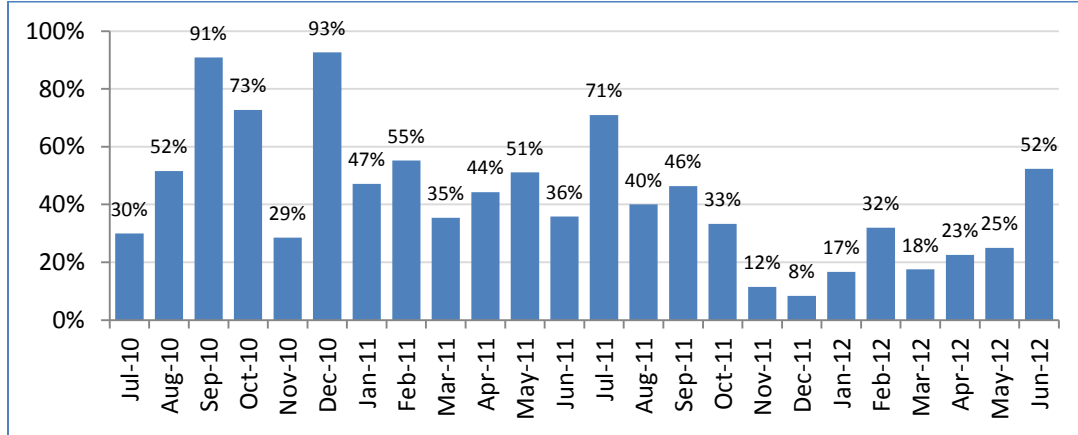
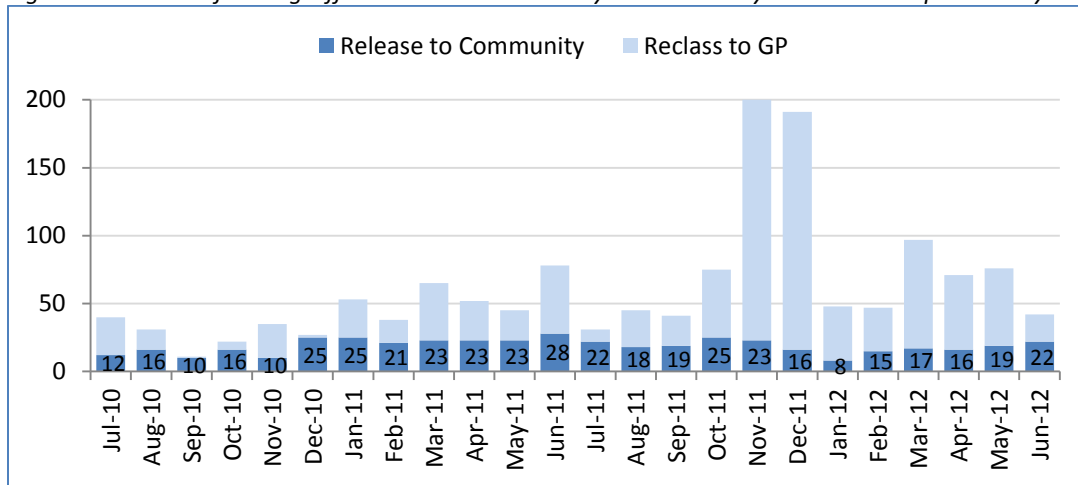


Figure 9. Number of Ad Seg Offenders Released Directly to Community vs. General Population by Month



- The CDCC’s Office of Facility Management Services has initiated a feasibility study for open air recreation spaces at CSP that addresses the final order and judgment issued in the case of Troy Anderson v. State of Colorado regarding deprivation of outdoor exercise. U.S. District Judge R. Brooke Jackson ordered the CDCC to present a plan to the court that ensures offender Anderson will have access, for at least 1 hour, at least three times per week, to outdoor exercise in an area that is fully outside and includes overhead access to the elements, unless prevented by inclement weather or disciplinary needs.

Offenders with Mental Illness

In 2010, the Colorado Department of Corrections (CDC) established the Specialized Administrative Segregation Program for Offenders with Mental Illness (OMI) at the Colorado State Penitentiary (CSP) and the Centennial Correctional Facility (CCF). The program’s goal is to provide evidence-based

treatment services to administratively segregated offenders who have mental illnesses in order to improve their ability to function effectively, to decrease their isolation, and to progress them to less restrictive facilities. A detailed report on the OMI program will be submitted to the House and Senate Judiciary Committees (per the Request for Information to the Governor by the Joint Budget Committee in the fiscal year 2012-13 Appropriations Report) by January 31, 2013, and a fact sheet has been prepared by the Department on changes underway.

The present report focuses on *all* offenders with mental illness, regardless of whether they are in the OMI program. CDOC uses a coding process to identify and track offenders who have mental health treatment needs. The psychiatric needs level codes (P codes) range from 1 to 5, with 3-5 indicating moderate to severe needs. The OMI program targets offenders coded P3-5. Figure 10 shows the total number of mentally ill offenders currently in administrative segregation (all of whom are not in the OMI program). Although the proportion of mentally ill offenders in administrative segregation increased to 57% in fiscal year 2012, the actual number declined.

Figure 10. Number of Mentally Ill Offenders in Administrative Segregation

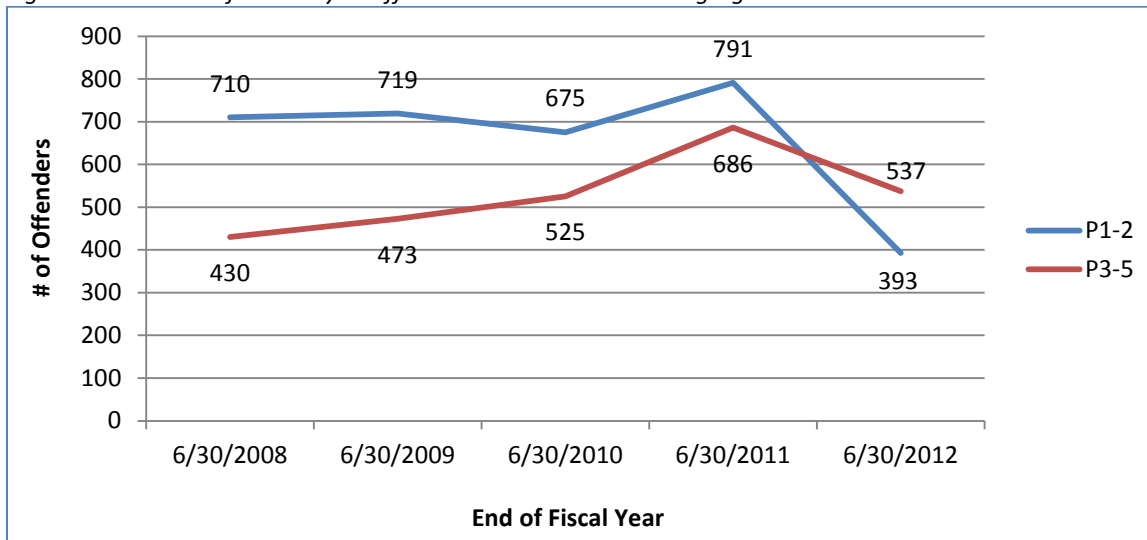


Figure 11 shows the sharp drop in administrative segregation placements since fiscal year 2011, consistent with changes in placement criteria described earlier, and Figure 12 describes the reasons for those placements. Note that because an offender may have more than one placement reason, the number of placements in Figure 11 does not equal the number of reasons in Figure 12.

Figure 11. Number of Administrative Segregation Placements

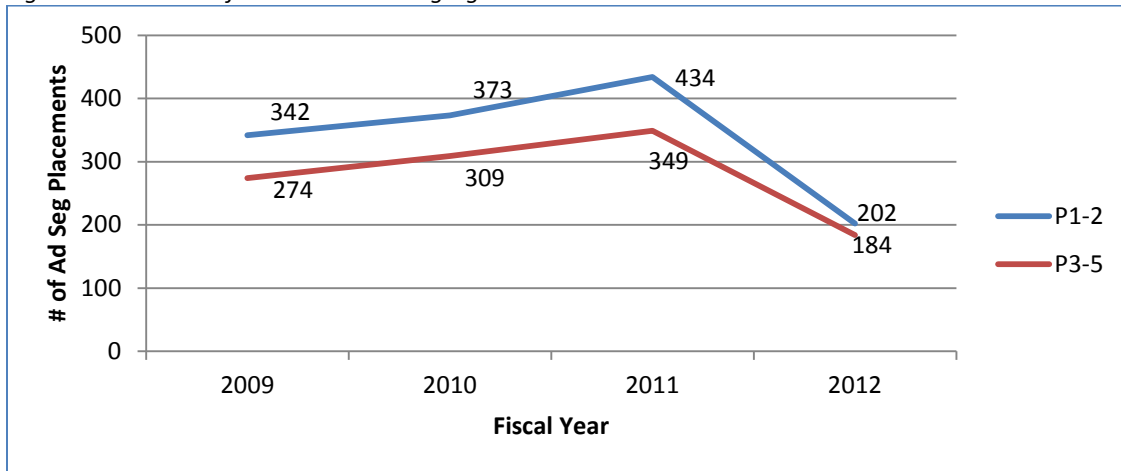


Figure 12. Reasons for Administrative Segregation Placements (P3-5 Only)

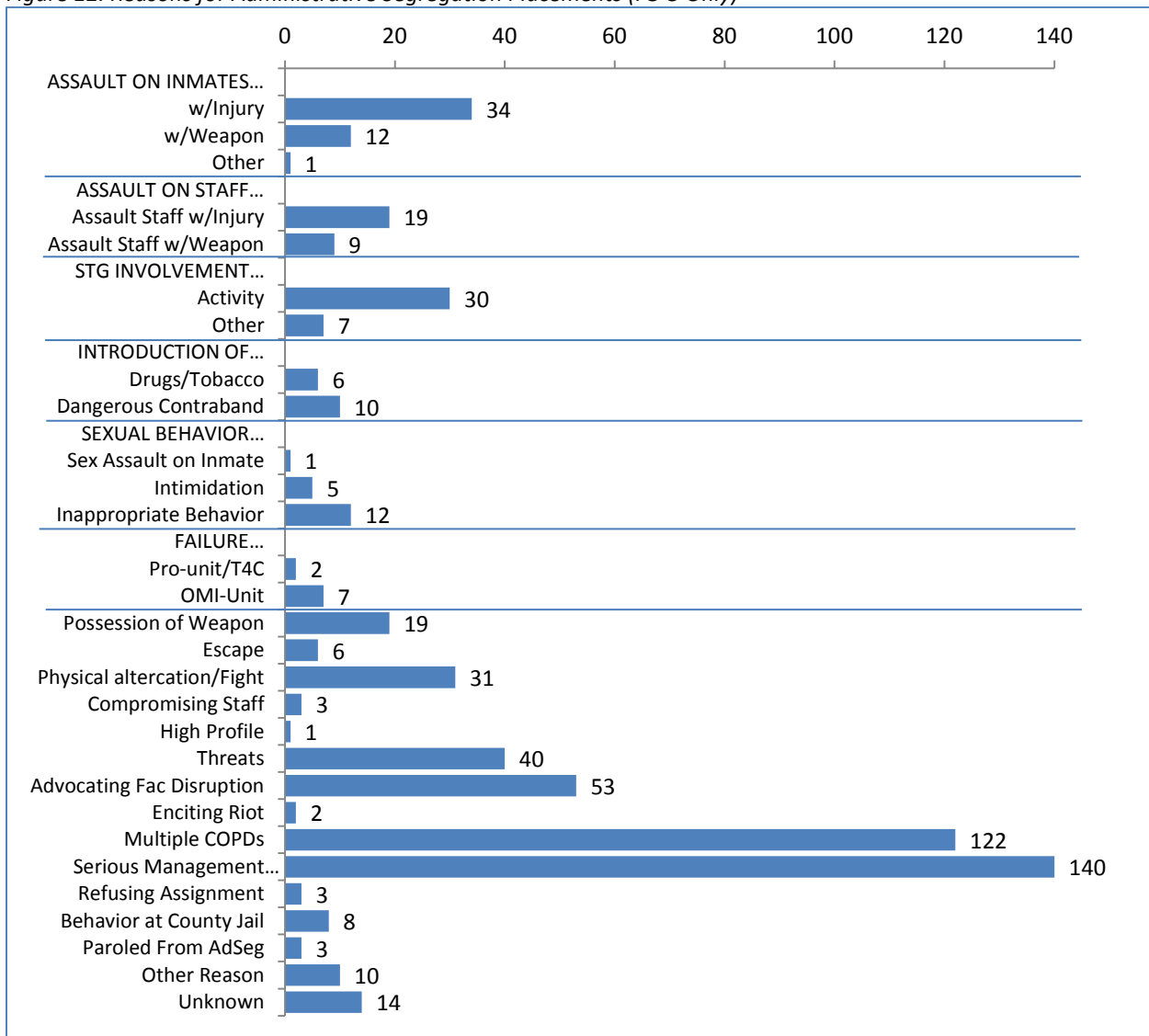
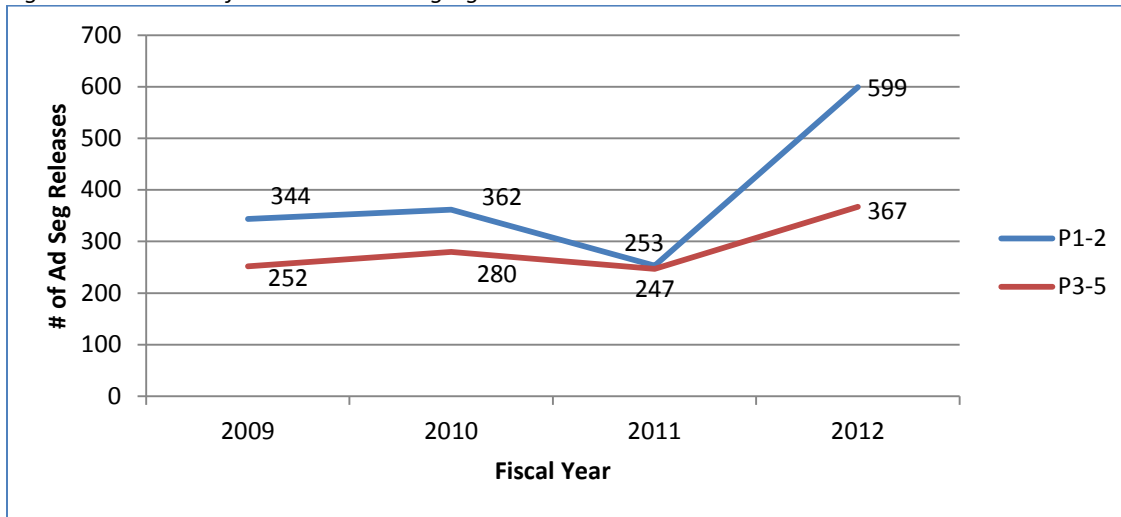


Figure 13 indicates an increase in releases, again aligning with the initiative to reduce the administrative segregation population. The median length of stay for mentally ill offenders in administrative segregation was 485 days in fiscal year 2012, compared to 615 days for the non-mentally ill, representing a difference of 4 months shorter stays for mentally ill inmates.

Figure 13. Number of Administrative Segregation Releases



Recognizing the high prevalence of serious mental illnesses among offenders, mental health is at the core of the CDOC's 2013-14 strategic plan. A continuum of care will be emphasized across all security levels, with the OMI program in administrative segregation remaining a strong focus. Following are highlights of efforts underway to improve outcomes for OMI offenders in administrative segregation:

- The OMI program will be renamed the Residential Treatment Program (RTP) and consolidated at CCF, where 240 beds and 28 clinician positions will be allocated to treatment of offenders with serious mental illness. Benefits of moving the program to CCF include:
 - specialized facility-specific mission to increase efficiency and continuity of care;
 - offenders housed according to incentive/treatment needs to provide program consistency;
 - increased out-of-cell time;
 - continuity of care for OMI.
- In addition to the 240-bed program will be a 12-bed unit for offenders who are self-injurious or need a more intensive mental health watch. This program will provide immediate and specialized assessment and treatment to offenders who engage in serious or repetitive self-injurious behavior to increase stability and decrease repeat episodes of self-injury.
- Also housed at CCF will be a 16-bed unit for offenders who have completed all levels of the residential program and are ready to begin reintegration to facilities. This program will include an in-reach component that will allow offenders leaving the program at CCF to meet with the clinicians at their receiving facility through videoconferencing.
- All program participants currently at CSP will be moved to CCF by January 7, 2013.
- The structure of the new program will foster an environment for successful completions. Formerly when offenders were noncompliant, they were removed from the program and allowed to re-enter later, resulting in a 61% "failure" rate. The new program will regress the offender to an appropriate level in the program to address the behaviors and promote successful progression.

- The Department began delivery of the curriculum *Mental Health First Aide* to all CCF corrections staff. This training is designed to teach staff of all disciplines better skills for working with offenders who have serious mental illness. All CCF staff will complete this training between November 15, 2012, and January 1, 2013.

Conclusion

The CDOC has made a concerted effort to examine and modify all aspects of administrative segregation. Significant policy changes and a reduced administrative segregation population have resulted from a strategic initiative and an independent analysis. In addition, a key focus of the Department's strategic plan is the improvement of behavioral health for offenders, and we expect the number of offenders with serious mental illness in segregation to continue declining. Although much progress has been made, careful management of administrative segregation—helping to ensure positive offender outcomes and public safety—will continue.