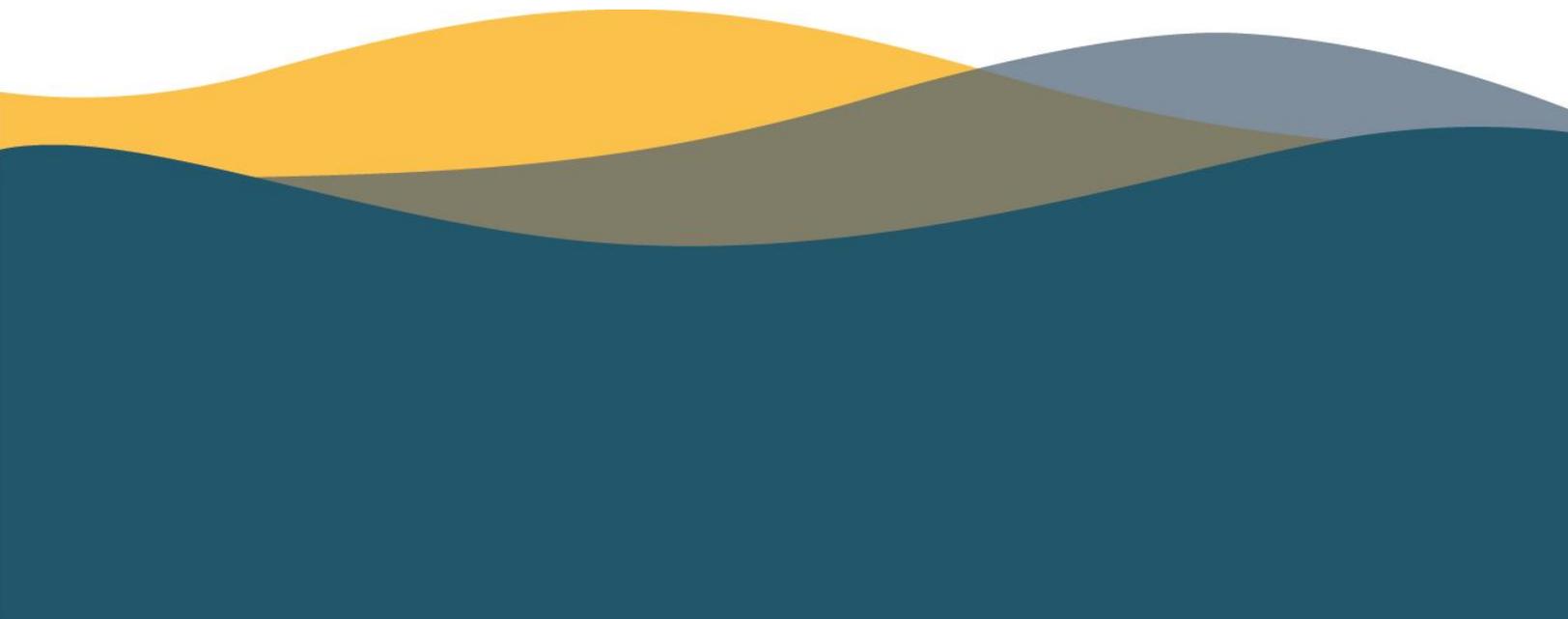


# 2023 Restrictive Housing Annual Report

September 25, 2023

Submitted by the Nebraska Department of Correctional Services



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## Introduction

### Restrictive Housing Reform in Nebraska

This report describes the use of restrictive housing (RH) within the Nebraska Department of Correctional Services (NDCS) between July 1, 2022, and June 30, 2023 (Fiscal Year [FY] 2023). July 1, 2016, NDCS discontinued the use of restrictive housing for disciplinary purposes. NDCS utilizes restrictive housing as a tool to assess and mitigate the risk of those persons who pose a significant threat to the safety of themselves or others, or to the security of the facilities. The risk those persons pose is assessed regularly (which will be outlined later in this document). This ensures these individuals are removed from restrictive housing when that risk has been reduced to a level that suggests the individual can be managed safely in a less restrictive setting. Additionally, in January 2021, NDCS discontinued the use of restrictive housing at the Nebraska Correctional Center for Women; this means there are no active restrictive housing units for females at any of the NDCS facilities. Therefore, all the restrictive housing data provided in this report will be for the male restrictive housing population.

There are two categories of restrictive housing in Nebraska: immediate segregation (IS) and longer-term restrictive housing (LTRH). Immediate segregation is a short-term (30 days or fewer) placement used to maintain safety and security of the facility. Longer-term restrictive housing is a placement of longer than 30 days that provides rehabilitative programming and behavior management intervention for persons who pose continued risk to the safety of themselves or others, or to the security of the facilities. Immediate segregation and LTRH will be discussed in greater detail in later sections of this report. It is also important to note that while holding placements are not considered restrictive housing, they are a necessary precursor to a restrictive housing placement, therefore holding will also be discussed in greater detail.

### Other Applicable Housing in Nebraska

Beginning in FY2023, under Neb. Rev. Stat. §83-4,114(4)(h), NDCS is required to provide information on housing unit assignments that are neither restrictive housing nor general population (hereinafter “Other Applicable Housing”). These units were developed to provide mission specific housing; other applicable housing includes the Skilled Nursing Facilities, Protective Management, Mental Health Units, and Higher Risk General Population Units. This allows individuals who have not been (or would not be) successful in the general population to be housed in a setting that is structured and safe to meet the unique needs of the individual.

### Report Outline

This report is divided into two sections to show the different data points for restrictive housing and other applicable housing.

1. The restrictive housing portion of this report is divided into five topical areas: (1) demographics of the restrictive housing population; (2) restrictive housing placement types, including the number, lengths of stay, and general characteristics of each stage of restrictive housing management (i.e., holding, IS,

LTRH); (3) special needs populations; (4) direct releases from restrictive housing into the community; and (5) the use of restrictive housing in surrounding states.

2. The Other Applicable Housing portion of this report is divided into four topical areas: (1) the purpose of each unit; (2) staffing levels and the type of staff assigned to the unit; (3) average daily population and average length of stay; and (4) programming opportunities and completion rates while in such settings.

## Report Contents

The scope of this report is specifically defined in Nebraska Revised Statute [N.R.S.] §83-4,114(4). The five topical areas for restrictive housing described above will address the eight specific points of interest outlined in statute:

1. The race, gender, age, and length of time each inmate has continuously been held in restrictive housing;
2. The number of inmates held in restrictive housing;
3. The reason or reasons each inmate was held in restrictive housing;
4. The number of inmates held in restrictive housing who have been diagnosed with a mental illness or behavioral disorder and the type of mental illness or behavioral disorder by inmate;
5. The number of inmates who were released from restrictive housing directly to parole or into the general public and the reason for such release;
6. The number of inmates who were placed in restrictive housing for his or her own safety and the underlying circumstances for each placement;
7. To the extent reasonably ascertainable, comparable statistics for the nation and each of the states that border Nebraska pertaining to items listed in 2 through 6, above; and
8. The mean and median length of time for all inmates held in restrictive housing

Additionally, in FY2023, Nebraska Revised Statute §83-4,114(4) included a ninth specific point of interest:

9. A description of all inmate housing areas that hold inmates in a setting that is neither general population nor restrictive housing, including the purpose of each setting, data on how many inmates were held in such settings, the average length of stay in such settings, information on programs provided in each setting, data on program completions in each setting, staffing levels and types of staff in each setting, and any other information or data relevant to the operation of such settings. For the purposes of this subdivision, general population means an inmate housing area that allows out-of-cell movement without the use of restraints, a minimum of six hours per day of out-of-cell time, regular access to programming areas outside the living unit, and access to services available to the broader population.

This report will also highlight changes in the use of restrictive housing and other applicable housing during FY2023, and changes that will be forthcoming in FY2024.

## Data Notes

In November of 2017, a restrictive housing data tracking system was added to the Nebraska Inmate Case Management System (NICaMS), the official source of record for electronic inmate information. The addition of an electronic tracking mechanism provided improvements over the paper documentation submitted in previous years by increasing the standardization of information collected across facilities, enhancing the integrity of reported data, and making restrictive housing information more readily available. FY2023 is the fifth full year for which the data presented in this report could be gathered entirely from the electronic restrictive housing data in NICaMS. As such, any missing or incomplete records that may exist in the system should be limited to what would reasonably be expected from routine errors in data entry (e.g., typos, late entries).

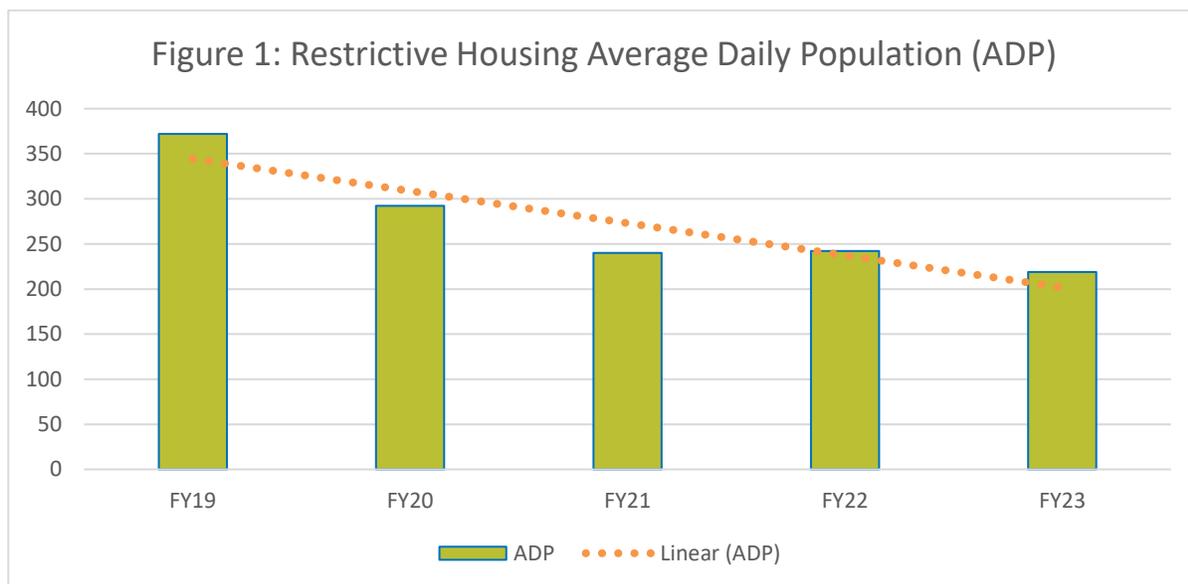
## Average Daily Population (ADP)

Average Daily Population (ADP) is a population metric that assesses the average number of people incarcerated on any day during a given time frame (in this case, between July 1, 2022, and June 30, 2023). To calculate the average daily population for this report, the total number of days all individuals spent in restrictive housing between July 1, 2022, and June 30, 2023, was divided by 365. This calculation is a more accurate reflection of population levels relative to snapshot, or point-in-time, estimates because it controls for the normal fluctuations that occur within any population.

## Restrictive Housing Population Demographics

### ADP Distribution by Facility

Figure 1 (below) shows the restrictive housing ADP for the agency for fiscal years 2019 through 2023. Table 1 (below) includes the ADP counts of the respective years, by facility. Details regarding the length of time spent on specific restrictive housing statuses (i.e., immediate segregation [IS] vs. longer-term restrictive housing [LTRH]) are discussed in more detail in later sections of this report. On average, approximately 219 people were held in restrictive housing on any given day during FY2023: 23 fewer people than FY2022, boasting the lowest ADP in the last 5 years.



Facility	FY2019	FY2020	FY2021	FY2022	FY2023
<i>LCC</i>	46.47	14.90	15.03	0.00	0.00
<i>NCCW</i>	3.78	4.58	5.90	0.42	0.00
<i>NCYF</i>	7.42	4.32	0.00	0.00	0.00
<i>NSP</i>	128.72	95.61	63.81	65.15	48.98
<i>OCC</i>	12.73	7.44	8.12	5.82	3.76
<i>RTC</i>	0.00	0.00	0.00	14.68	14.92
<i>TSCI</i>	173.07	165.40	147.05	156.09	151.11
<b>Total</b>	<b>372.19</b>	<b>292.24</b>	<b>239.91</b>	<b>242.17</b>	<b>218.77</b>

<sup>1</sup>On 7/26/2021 NCCW ceased the use of restrictive housing.

<sup>2</sup>On 1/6/2022 DEC and LCC became a single facility, the Reception and Treatment Center (RTC).

### General facility trends

The overall distribution of the restrictive housing population across institutions has remained relatively consistent since FY2019. In addition, these distributions are consistent with the known missions of each facility, facility physical plant, and the respective compositions of their populations. The downward trend in the use of restrictive housing is attributable to the continued dedication of NDCS to house individuals in the least restrictive setting possible.

Tecumseh State Correctional Institution (TSCI) restrictive housing unit has been designated to house the Department's longer-term restrictive housing population; for this reason, TSCI has the largest RH population in the system. TSCI averages about 151 individuals in RH per day which is 69.07% of the agency's RH population. TSCI's design allows it to house the largest concentration of individuals assigned to LTRH which, by nature, does not turnover as quickly as the IS population. Furthermore, TSCI is the only facility that offers The Challenge Program (TCP). As such, individuals assigned to LTRH, and TCP are moved to TSCI so that they may participate in their assigned programming.

The Nebraska State Penitentiary (NSP) was not specifically designed for restrictive housing populations; however, it is the largest facility. As such, NSP has the second highest restrictive housing ADP of 49 (22.39%). NSP also receives some individuals placed on immediate segregation status from the Reception and Treatment Center due to physical plant limitations at RTC; these individuals are typically those whose reason for restrictive housing placement will likely result in a recommendation for LTRH.

The Reception and Treatment Center (RTC), formerly the Lincoln Correctional Center (LCC), has maintained their low ADP in restrictive housing, accounting for only 6.06% of the agency's restrictive housing population. During FY2019, NDCS made significant changes in managing inmates requiring protective custody and those with significant mental health concerns. These changes were expanded in FY2020 with the implementation of a Limited Movement Unit and the development and implementation of a three-tiered specialized mental health care unit at RTC. The RTC restrictive housing average daily population increased by .03 from FY2022. This can be explained by the opening of RTC's F and G units in January 2023. These units house individuals who present greater management challenges than the general population and are often those who were recently in LTRH or who were assigned to the units in lieu of being placed in LTRH. RTC has only 16 IS cells, so individuals who may be referred to LTRH are generally transferred to NSP until the individual is reviewed for LTRH.

The Omaha Correctional Center (OCC) has a low restrictive housing ADP due to a number of factors including that it is the smallest adult male facility and does not have a unit for inmates assigned to LTRH, so inmates placed on IS status have a shorter length of stay than inmates at other institutions based on space available. Also, OCC houses medium and minimum custody inmates – a large concentration of whom are close to transitioning into the community. This population generally presents fewer management challenges, as these individuals are more cautious to not jeopardize their release.

### Fiscal year changes in ADP

The restrictive housing ADP of 218.77 in FY2023 is the lowest it has been since the department began making restrictive housing changes in 2016. This reduction is a direct reflection of NDCS's continued efforts to house people in the least restrictive environment possible, while still maintaining the safety of the individual, other incarcerated persons, staff, and the security of the facilities.

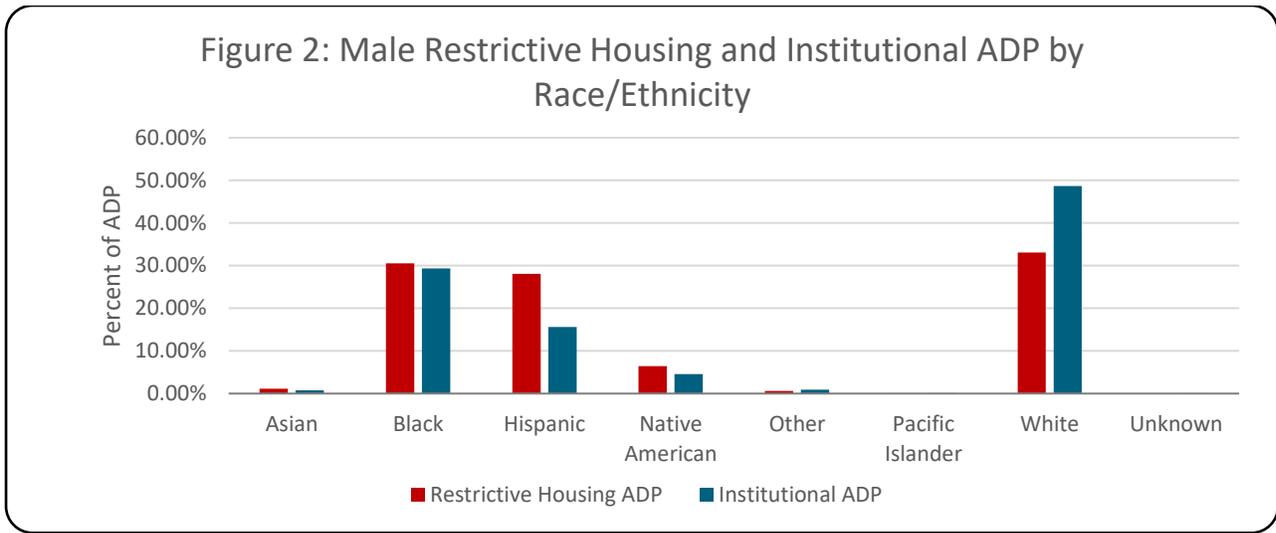
Legislative changes also played a key role in shaping the Department's restrictive housing policies and operations. LB230 (2020) prohibits the use of room confinement for juveniles unless it is done to "eliminate the substantial and immediate risk of harm to self or others" and requires the person to be "released from room confinement as soon as the substantial and immediate risk of harm to self or others is resolved." In preparation for this bill's effective date, NCYF took proactive measures to discontinue the use of restrictive housing within the facility for all inmates, as of April 15, 2020. Individuals 18 years or older are managed on a case-by-case basis and, in extraordinary circumstances, may be transferred to OCC for placement on IS status.

LB686 (2019) prohibits NDCS from placing any member of a vulnerable population in a longer-term restrictive housing environment. A member of a vulnerable population is defined as "... an inmate who is eighteen years of age or younger, pregnant, or diagnosed with a serious mental illness as defined in section 44-792<sup>1</sup>, a developmental disability as defined in section 71-1107<sup>2</sup>, or a traumatic brain injury as defined in section 79-1118.01.<sup>3</sup>"

<sup>1</sup> N.R.S. §44-792(5)(b) defines "serious mental illness" as "...any mental health condition that current medical science affirms is caused by a biological disorder of the brain and that substantially limits the life activities of the person with the serious mental illness. Serious mental illness includes, but is not limited to (i) schizophrenia, (ii) schizoaffective disorder, (iii) delusional disorder, (iv) bipolar affective disorder, (v) major depression, and (vi) obsessive compulsive disorder."

<sup>2</sup> N.R.S. §71-1107 defines "developmental disability" as: "... a severe, chronic disability, including an intellectual disability, other than mental illness, which: (1) Is attributable to a mental or physical impairment unless the impairment is solely attributable to a severe emotional disturbance or a persistent mental illness; (2) Is manifested before the age of twenty-two years; (3) Is likely to continue indefinitely; (4) Results in substantial functional limitations in one of each of the following areas of adaptive functioning: (a) Conceptual skills, including language, literacy, money, time, number concepts, and self-direction; (b) Social skills, including interpersonal skills, social responsibility, self-esteem, gullibility, wariness, social problem solving, and the ability to follow laws and rules and to avoid being victimized; and (c) Practical skills, including activities of daily living, personal care, occupational skills, health care, mobility, and the capacity for independent living; and (5) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized support, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated. An individual from birth through the age of nine years who has a substantial developmental delay or specific congenital or acquired condition may be considered to have a developmental disability without manifesting substantial functional limitations in three or more of the areas of adaptive functioning described in subdivision (4) of this section if the individual, without services and support, has a high probability of manifesting such limitations in such areas later in life."

<sup>3</sup> N.R.S. §79-1118.01(15) defines "traumatic brain injury" as: "... an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma."



**Table 2: Comparison: RH ADP and Institutional ADP by Race/Ethnicity (Male)**

Race/Ethnicity	RH ADP	% of RH ADP	Inst. ADP	% of Inst. ADP
<i>Asian</i>	1.13	1.13%	41.66	0.79%
<i>Black</i>	66.87	30.57%	1547.04	29.33%
<i>Hispanic</i>	61.46	28.09%	824.43	15.63%
<i>Native American</i>	14.11	6.45%	239.25	4.54%
<i>Other</i>	1.37	0.63%	47.10	0.89%
<i>Pacific Islander</i>	0.08	0.04%	4.70	0.09%
<i>White</i>	72.41	33.10%	2566.64	48.66%
<i>Unknown</i>	0.00	0.00%	3.48	0.07%
<b>Total</b>	<b>218.77</b>	<b>100.00%</b>	<b>5274.29</b>	<b>100.00%</b>

<sup>1</sup>Total ADP and percentages may not total exactly due to rounding.

### ADP Distribution by Race/Ethnicity

Figure 2 (above) shows the distribution of the FY2023 male restrictive housing population across racial/ethnic groups. Table 2 (above) presents the ADP counts and percentages of the same distribution. Hispanics are overrepresented in restrictive housing largely due to race/ethnicity-based Security Threat Group activities which cause an increase in RH events.

**ADP Distribution by Age**

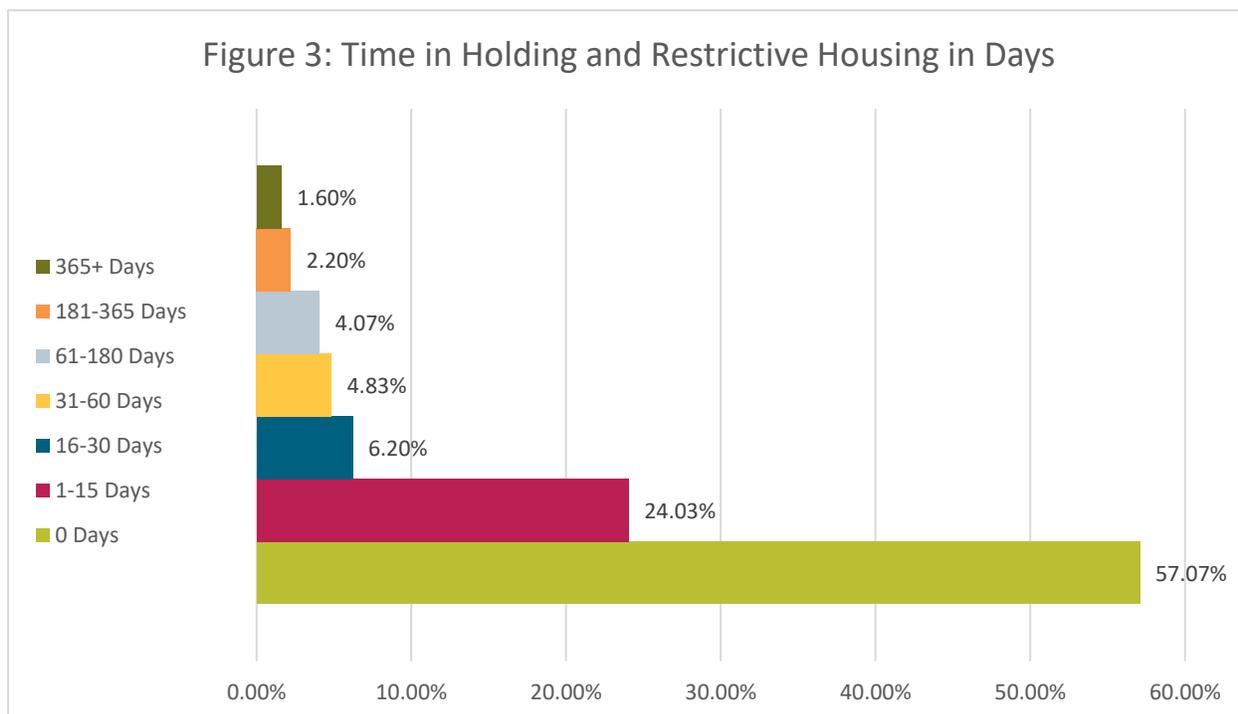
Table 3 provides the distribution of the restrictive housing population across age groups. Just under 50% of the restrictive housing average daily population during FY2023 (46.47%) were between the ages of 22-31. Following behind that population is the 32-41 age bracket, this population makes up 31.87% of the ADP in RH. This is consistent with the aging out phenomenon which states that the older an individual gets the less likely they are to engage in criminal behavior.

Table 3: ADP Distribution by Age

<b><u>Age Group</u></b>	<b><u>RH Population %</u></b>
22-31	46.47%
32-41	31.87%
42+	21.65%
<b>Total</b>	<b>100.00 %</b>

## Restrictive Housing Placement Types

On July 1, 2016, the Nebraska Department of Correctional Services (NDCS) discontinued the use of restrictive housing for disciplinary or punitive purposes. Since then, restrictive housing has been used to mitigate the risk a person poses to himself; fellow inmates; staff; and/or the safety, security, and good order of the institution. When a significant event occurs, an individual may be taken to a holding cell, which is a secure, temporary placement location away from the general population, while staff determine the best way to resolve the situation. While holding is not a restrictive housing status, it is the catalyst for immediate segregation (IS) and longer-term restrictive housing (LTRH), and it plays an important role in contextualizing the use of restrictive housing within NDCS.



### Holding Placements and the Restrictive Housing Pass-Through Population

During FY2023, a total of 1,303 unique individuals were held in restrictive housing for at least one day during the year. The average length of time spent for a given restrictive housing event was 29.24 days, a 7.48 day decrease from FY2022 (20.4% decrease). The distribution varies widely, with the median length of stay<sup>4</sup> being two days. Figure 3 shows the distribution of the restrictive housing population by length of stay, as well as the proportion of people placed in holding who were not subsequently assigned to immediate segregation. While holding placements do not constitute restrictive housing,

<sup>4</sup> Length of stay for restrictive housing events are calculated as the number of days from a person's initial placement in holding to their restrictive housing release date. For individuals who were assigned to a restrictive housing status on the last day of FY2023, their event length of stay was calculated as the number of days from their initial holding placements through June 30, 2023.

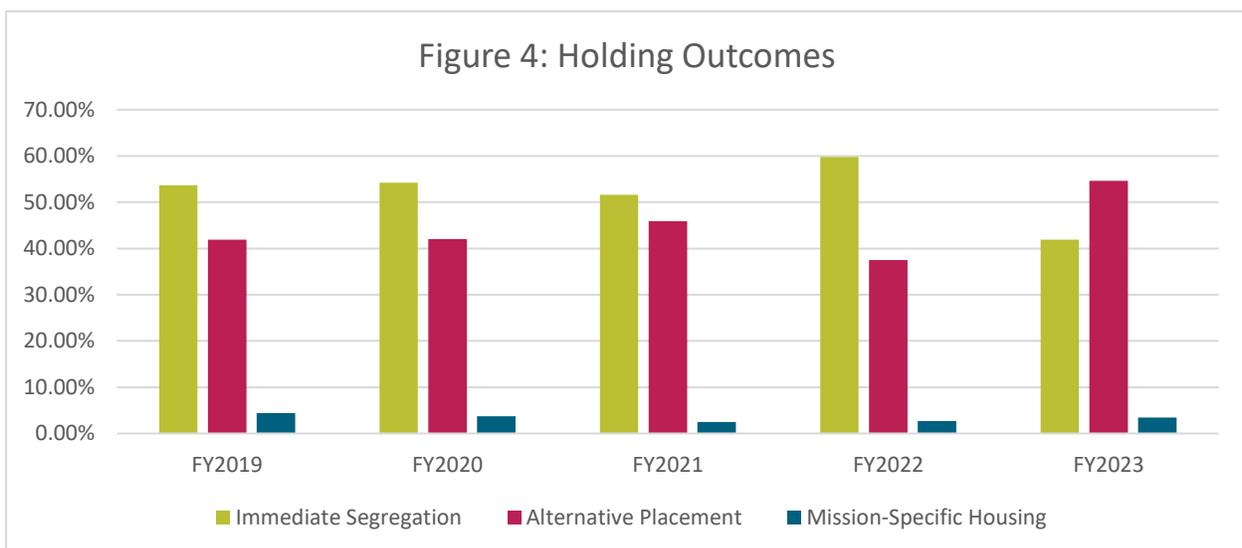
they play an important role as a necessary precursor. Holding events will not last more than four hours without prior approval from the Warden and communication with the Deputy Director.

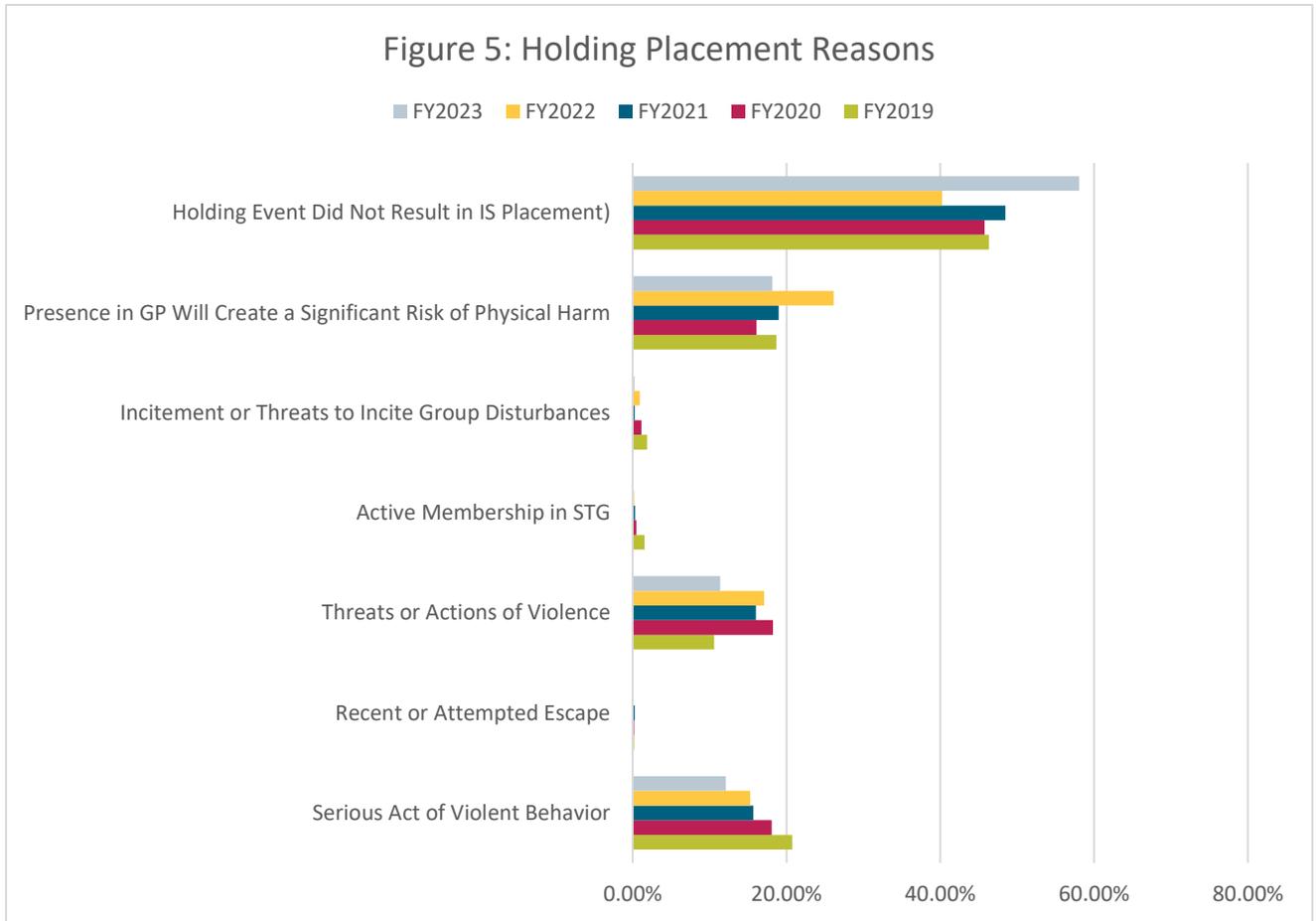
Same day releases make up 57.07% of all holding events which is a 17.64% increase from FY2022. This increase in alternative placement is due to facility staff being encouraged to use restrictive housing as a last resort whenever safely possible, and to use the necessary restrictive housing placements for the shortest amount of time that is necessary to ensure the safety of the individual, others, and the security of the facilities. Excluding same day releases, about 30.23% of the restrictive housing placements are for 30 days or less, with 24.03% ending within 15 days.

### Holding Placements

Between July 1, 2022 and June 30, 2023, 4,216 unique holding events were recorded in the electronic restrictive housing data tracking system. On average, there were around 12 holding placements per day. Because holding placements are temporary, there is no length of stay to be calculated for this event. If persons are to be held for 24 hours or more, they are assigned to IS.

Figure 4 (below) shows the outcomes of the holding events from FY2019 through FY2023. As discussed in the previous section, an alternative to restrictive housing (i.e., alternative placement or mission-specific housing) was deemed appropriate in 58.06% of these cases, and individuals were released from holding on the same day, this is the highest percentage in the past 5 years. Alternative placements may include returning persons to their regularly assigned housing location, moving them to another facility or housing unit, or referring them to a mission-specific general population housing unit. Mission-specific housing units place individuals with common demographics, interests, challenges and/or needs together to provide safe and effective living environments; thereby reducing the need for restrictive housing. Although a significant proportion of holding events were resolved using alternative housing options, 41.94% could not be resolved on the same day, and resulted in assignments to IS.





### Reasons for holding placements

To ensure restrictive housing placements are used only for risk management purposes, NDCS classifies placements into one of the six categories identified below:

1. A serious act of violent behavior.
2. A recent escape or attempted escape from secure custody.
3. Threats or actions of violence that are likely to destabilize the institutional environment to such a degree that the order and security of the facility is significantly threatened.
4. Active membership in a “security threat group” (prison gang), accompanied by a finding, based on specific and reliable information, that the inmate either has engaged in dangerous or threatening behavior directed by the security threat group, or directs the dangerous or threatening behavior of others.
5. The incitement or threats to incite group disturbances in a correctional facility.
6. Inmates whose presence in the general population would create a significant risk of physical harm to staff, themselves and/or other inmates. (If reason #6 is used, staff must include a written explanation of the event and a justification for why this placement type is necessary.)

Figure 5 (above) provides a distribution of the various reasons why individuals were sent to holding between FY2019 through FY2023.

Recall that holding placements may be used as a temporary assignment while staff identify the best resolution to a situation. If a holding event occurs, it may not necessarily be for reasons related to restrictive housing placements. As such, the 2,448 records with no placement reason recorded were all holding events that were disposed of on the same day with alternative placements or transitions to mission-specific housing units. Of 41.94% holding placements that resulted in IS placement 18.15% were for potential risk of significant harm to themselves or others if that individual remained in general population, 12.10% were for serious acts of violent behavior, 11.39% were for threats or actions of violence, and less than 1% were due to incitement or threats to incite a group disturbance, recent or attempted escape and active membership in a Security Threat Group.

It is significant to note that while the proportion of individuals placed in holding for their active membership in a security threat group is small, placements for that reason have continually decreased since FY2019. This is likely due to two operational changes. The first change was a reconceptualization of the events that resulted in a person's placement. For example, individuals who are involved in trafficking activities or pressuring other inmates off to the yard on the behalf of their STG had previously been placed in restrictive housing under reason #4. Over the last four years, staff have begun using reason #3 to capture these events, as they are a better representation of the actions that have occurred and not the underlying reason for the actions. The second operational change is a gradual acceptance among staff that simply belonging to, or being active in, a security threat group is generally not a sufficient reason to place someone in restrictive housing. There may be instances in which Intelligence staff request an inmate be placed in holding due to their STG involvement, and line staff use this option because other confidential details of the situation are not known to them at the time. However, as shown in the data, there were no occurrences in FY2023 of IS placements or Holding Events for STG involvement.

Table 4: Immediate Segregation Placement Reasons

<u>Reason for Placement</u>	<u>FY2021</u>		<u>FY2022</u>		<u>FY2023</u>	
	<u># of Events</u>	<u>% of Events</u>	<u># of Events</u>	<u>% of Events</u>	<u># of Events</u>	<u>% of Events</u>
1. Serious act of violent behavior	744	30.42%	534	25.60%	510	28.85%
2. Recent escape or attempted escape	13	0.53%	4	0.19%	3	0.17%
3. Threats or actions of violence	760	31.07%	596	28.57%	480	27.15%
4. Active membership in a Security Threat Group	15	0.61%	7	0.34%	0	0.00%
5. Incitement or threats to incite group disturbances	13	0.53%	32	1.53%	10	0.57%
6. Presence in General Population will create a significant risk of physical harm	901	36.84%	913	43.77%	765	43.27%
<i>Inmate does not feel safe in General Population</i>	45		50		43	
<i>Inmate does not feel safe in Protective Custody</i>	47		38		36	
<i>Inmate has destroyed property</i>	5		3		5	
<i>Inmate has requested Protective Custody</i>	480		434		352	
<i>Inmate refused approved housing</i>	250		301		269	
<i>Inmate requires involuntary protective custody</i>	25		24		9	
<i>Other</i>	49		63		50	
<b>Total</b>	<b>2,446</b>	<b>100.00%</b>	<b>2,086</b>	<b>100.00%</b>	<b>1,768</b>	<b>100.00%</b>

### Immediate Segregation (IS)

Immediate Segregation (IS) is a short-term housing assignment of no more than 30 days used in response to behavior that creates a risk to the person assigned, others, or the security of the institution. This type of restrictive housing is used to maintain safety and security while investigations are completed, and/or appropriate housing is identified. During FY2023, there were 1,768 total assignments to IS. The reasons for these placements are presented in Table 4, along with the corresponding data from FY2021 and FY2022.

Just over half of IS placements (56%) in FY2023 were related to serious acts of violent behavior (28.85%) or threats of actions of serious violent behavior (27.15%). This is consistent with the mission of using restrictive housing as a risk management tool, rather than a disciplinary sanction for minor rule violations.

Specifically, just under half of the placements under reason category 6 (n=352; 46.01%) were due to individuals requesting protective custody (PC). About 36% of individuals (n=269) refused to leave restrictive housing and go to their assigned housing location, and another 11.50% were persons who noted they did not feel safe in general population (n=43) or in PC (n=36), or whom NDCS staff deemed it necessary to place the individual on involuntary PC for their own protection (n=9). NDCS is committed to ensuring that the number of people placed into restrictive housing for reason 6 is kept to a minimum, and that when people are admitted for this reason, they are transitioned to an appropriate permanent housing assignment as quickly as possible.

The average length of stay<sup>5</sup> for individuals assigned to IS was 13.7 days, with a median stay of 9 days. Current NDCS policy (210.01) requires IS placements to be reviewed by the warden after 15 days, and either end the RH event or transfer to LTRH status at 30 days. Thirty days is generally enough time for the warden and his/her staff to determine whether the person can be released to an approved alternative placement or whether a referral to LTRH is warranted. There are instances, however, in which an immediate decision regarding LTRH placements cannot be determined and more time is needed to gather information or find a suitable alternative living arrangement. In these situations, the warden or their designee may submit up to two 15-day extension requests, which could result in a potential maximum IS term of 60 days. These extension requests are reviewed by the Deputy Director – Prisons (or the Director, if a second request is submitted) and used in lieu of assignment to LTRH, if approved.

### Longer-Term Restrictive Housing (LTRH)

Longer-term restrictive housing is a restrictive housing assignment of more than 30 days and used as a risk management intervention for individuals whose behavior continues to pose a risk to the safety of themselves or others. LTRH assignments provide individuals with the opportunity to participate in evidence-based, risk-reducing cognitive behavioral programming, as well as collaborate in developing a plan for transitioning from restrictive housing back to general population or a mission-specific housing unit.

While the warden or his/her designee may recommend individuals be placed on LTRH, such assignments are decided by the Central Office Multidisciplinary Review Team (MDRT), which meets weekly to review and authorize all new assignments to LTRH. The team (chaired by the Deputy Director of Prisons, with representatives from behavioral health, classification, facility Warden or designee and intelligence) reviews each inmate on LTRH status to assess compliance with behavioral and programming plans, and to determine if a promotion to a less restrictive setting is compatible with the safety of the inmate, others, and security of the facility. These reviews are completed at specific intervals during an individual's LTRH stay, these intervals are based off the individual's IS placement date. These reviews are completed at 90 days, 180 days, 270

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<sup>5</sup> Length of stay for immediate segregation placements are calculated as the number of days from a person's initial IS assignment to either their restrictive housing release date or their date of assignment to LTRH status. For individuals who were assigned to IS on the last day of FY2023, their event length of stay was calculated from their initial IS assignment through June 30, 2023.

days, and 365 days; if an individual is continued on LTRH longer than 365 days they are reviewed every 30 days.

When discussing risk assessment and management, NDCS operates under the least restrictive environment standard to transition people out of restrictive housing to a less restrictive setting safely and effectively with minimal risk to the safety of themselves, others, and the security of the facilities. As a result, the amount of time required to address one’s needs and mitigate the risk a person poses to the safety of themselves, or others cannot be standardized. This provides NDCS with the needed flexibility to manage individuals in accordance with their own unique set of circumstances and risk factors, with the goal of transitioning people out of restrictive housing to the least restrictive environment in which they can safely be housed as soon as possible. The informed use of this flexibility is evidenced by the fact that, while the average length of time individuals spent on LTRH status<sup>6</sup> during FY2023 was 237.76 days with a median length of stay of 123 days, placements on LTRH varied between one and 2,130 days. Twenty individuals spent a week or less on LTRH. In contrast, there were sixteen people in FY2023 who spent three years or more in restrictive housing. Two of those individuals are persons of interest in the March 2017 disturbances at TSCI, which resulted in the homicides of two inmates.

**Multidisciplinary Review Team (MDRT) referrals**

Between July 1, 2022, and June 30, 2023, the MDRT conducted 1,477 LTRH reviews. This is a 6.11% increase from FY2021, in which the team reviewed 1,392 unique referrals and a 2.29% increase from the 1,444 reviews completed in FY2022. This is a strong indication that, while holding and IS placements have been relatively stable (see Figure 5 and Table 4, above), the levels of elevated risk present in general population, as well as the perceptions of which behaviors warrant referrals for LTRH placement, has maintained over the past year. Table 5 compares the facility LTRH recommendations to the decisions made by the MDRT.<sup>7</sup>

Table 5: Longer-Term Restrictive Housing Referral Outcomes

<u>Facility Submissions</u>		<u>MDRT Decision</u>			
<u>Recommendation</u>	<u># Of Referrals</u>	<u>Assign</u>	<u>Continue</u>	<u>Remove</u>	<u>MDRT Approval Rate</u>
Assign to LTRH	321	284	~	37	88.47%
Continue Placement	885	~	707	178	79.89%
Remove	271	1	23	247	91.14%
<b>Total</b>	<b>1,477</b>	<b>285</b>	<b>730</b>	<b>462</b>	~

<sup>6</sup> Length of stay for longer-term restrictive housing placements are calculated as the number of days from a person’s initial LTRH assignment to their restrictive housing release date. For individuals who were assigned to LTRH on the last day of FY2023, their event length of stay was calculated from their LTRH assignment through June 30, 2023.

<sup>7</sup> See Appendix 1 for more detailed information on MDRT decisions issued during FY2021-FY2023.

Regarding initial LTRH assignments, the MDRT approved wardens' recommendations in almost 90% of their reviews (88.47%). This is the highest agreement rate for initial placements in the past 5 years. The higher rate of agreement in assignment by the MDRT is due to a multitude of factors. Over the past 5 years, concentrated efforts have been made to communicate the expectations and proper use of LTRH to facility staff. During FY2020, those communications were underscored by the MDRT by declining assignment referrals to LTRH when less restrictive options had not been adequately pursued and that the use of LTRH was not justified. The efforts of the MDRT and the responsiveness of facility staff have resulted in a reduction in the overall number of referrals for LTRH; the MDRT reviewed 95 fewer referrals for placement on LTRH in FY2023 than in FY2022. Accordingly, of those referrals that do make it to the MDRT for review, the likelihood that alternatives have been exhausted has increased, and the agreement rate, therefore, has also increased. Furthermore, the continued high concordance rate for continuations (81.71%) and removals (92.24%) demonstrates an understanding from the facility staff of the appropriate use of LTRH, not only upon initial assignment, but also for continued management, intervention, and release to an alternative and ultimately less restrictive setting. Overall, the reduction in referrals and the increase in agreement on appropriate placement is indicative of an acceptance among staff that less restrictive options must be continuously sought and that LTRH is to be used only when no other options are available.

Table 6, below, identifies the placement reason for the 285 cases MDRT assigned to LTRH. Notably, 75.44% of MDRT assignments were due to serious acts of violent behavior (50.88%) or threats or actions of violence (24.56%). This is a slight increase from FY2022 (7.5%). In contrast, MDRT assignments due to the potential that a person’s presence in general population creates a significant risk of physical harm (i.e., reason #6), decreased approximately 7.4% in FY2023 to 23.16% of placements. Among these individuals, 22.72% (15 of 66) were due to a person’s request for protective custody, 51.51% (34 of 66) for refusing their approved housing assignment, and 13.63% (9 of 66) were due to the individual not feeling safe in protective custody.

Table 6: Longer-Term Restrictive Housing Assignment Reasons

Reason for LTRH Placement	FY2021		FY2022		FY2023	
	Count of Events	% of Events	Count of Events	% of Events	Count of Events	% of Events
1. Serious act of violent behavior	205	69.97%	150	44.12%	145	50.88%
2. Recent escape or attempted escape	0	0.00%	0	0.00%	1	0.35%
3. Threats or actions of violence	58	19.80%	81	23.82%	70	24.56%
4. Active membership in a Security Threat Group	8	2.73%	4	1.18%	0	0.00%
5. Incitement or threats to incite group disturbances	1	0.34%	1	0.29%	3	1.05%
6. Presence in General Population will create a significant risk of physical harm	21	7.17%	104	30.59%	66	23.16%
<i>Inmate does not feel safe in General Population</i>	0		7		6	
<i>Inmate does not feel safe in Protective Custody</i>	3		14		9	
<i>Inmate has requested Protective Custody</i>	4		43		15	
<i>Inmate refused approved housing</i>	12		33		34	
<i>Inmate requires involuntary protective custody</i>	0		1		1	
<i>Other</i>	2		6		1	
<b>Total</b>	<b>293</b>	<b>100.00%</b>	<b>340</b>	<b>100.00%</b>	<b>285</b>	<b>100.00%</b>

### Programs and services offered in restrictive housing

In November 2019, NDCS introduced a Restrictive Housing (RH) Program Menu in all longer-term restrictive housing locations. The RH Program Menus are individualized per location and include a comprehensive list of all non-clinical programming options available to the individual assigned to LTRH, to include both in-cell and congregate programming opportunities. *Courage to Change*, a cognitive-behavioral interactive journaling system, was introduced as an in-cell, self-guided programming option. Coupled with motivational feedback from a program facilitator, this series of nine journals helps the individual address a specific area of concern including substance use, personal relationships, criminal thinking errors and more.

Supplemental Interactive Journaling programs are also available to individuals assigned to LTRH. *Remodeling My House* encourages participants to use free drawing as a method to explore their personal stories, identify personal values, and consider potential for positive change. *My Recovery Song* gives participants the opportunity to practice self-reflection and positive self-expression through song. Additionally, a non-traditional programming option was introduced. This non-traditional program allows individuals to make selections from a collection of pro-social books and writing prompts with the intent of engaging the person in contemplation and change-talk.

In September 2017, NDCS introduced The Challenge Program (TCP)<sup>8</sup>. At its inception, the program was a cognitive-based, non-clinical, intervention program that began in restrictive housing and continued in a structured non-restrictive housing environment. The target population for this program are individuals who have demonstrated serious violence in NDCS facilities or where there is sufficient documented intelligence that they have orchestrated violence while in NDCS custody. Specifically, when a person's behavior and institutional record meet the eligibility criteria, MDRT may recommend a person complete TCP as their risk-reducing pathway out of restrictive housing in instances in which the event involves serious injury to the victim, use of a weapon during an assault, an assault on an NDCS team member, violence carried out on behalf of a security threat group (STG), or participation as one of multiple aggressors in an assault. Recall from earlier that half of longer-term restrictive housing placements are for serious acts of violence.

The Challenge Program underwent some structural changes beginning in November 2019, in which the Challenge Series became available for participation during assignment to LTRH, and Phase III (continued TCP programming in a non-restrictive setting) was dissolved. TCP aims to reduce criminal thinking patterns and the deviant behaviors they inspire among high-risk individuals. One of the primary challenges of TCP is that those recommended for the program represent the highest risk, most violent

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<sup>8</sup> The Challenge Program combines Moral Reconciliation Therapy, a cognitive-behavioral intervention (CBI) offered in a group setting, with the Challenge Series, a series of seven self-guided interactive journals designed to guide individuals toward prosocial behavior. If an individual participates in his or her clinical violent offender or sex offender treatment while in restrictive housing, the MDRT may waive a person's requirement to complete TCP prior to release from restrictive housing, given the higher-level of CBI provided in those programs.

segment of the LTRH population. They are also the individuals most resistant to participating in programs and effecting positive changes in their own lives. This is especially problematic because many STG members in restrictive housing adhere to a self-imposed “code” that prohibits members from engaging in The Challenge Program. By refusing to engage in risk-reducing programming, these individuals prolong the length of time they spend on LTRH status. To encourage participation, MDRT continues to send personalized letters to those who refuse, outlining the benefits of this program and how it serves as their pathway back to a less restrictive setting. Additional outreach occurred at the beginning of FY2021, in which motivational face-to-face conversations were attempted and program brochures and booklets were sent to inmates who continued to refuse to participate in any portion of TCP. As a further method of engagement, individuals who continue to refuse participation in TCP are regularly offered the opportunity to engage in other non-clinical programming options that allow the individual the opportunity to gain Tiers II (e.g., extra visit, extra yard) and III incentives (e.g., personal television, authorized congregate activities). Specifically, all individuals continually refusing to participate in TCP have received the first module of Courage to Change, a self-guided journaling series comparable to the Challenge Series. Ultimately, the continued goal is to offer individuals the opportunity to engage in risk-reducing programming as one method of assisting in their rehabilitative journey.

Some individuals who refuse to participate in TCP will engage in their required Violence Reduction Program (VRP). Because these programs are also grounded in cognitive-behavioral intervention strategies and provide a much higher level of intervention than what is offered in TCP, MDRT may waive the TCP requirement as the risk-reducing pathway out of restrictive housing for those who successfully complete their VRP recommendations. To increase the availability of clinical programming, NDCS developed two VRP groups for restrictive housing. The first cohorts began in July of 2019 with one group located at TSCI and the other at NSP. Individuals who engage in VRP appropriately and are successful in the treatment process while in restrictive housing may be transitioned out of restrictive housing where they can complete the program in a less-restrictive setting.

At the end of FY2018, NDCS began partnering with the Mental Health Association of Nebraska to implement the Intentional Peer Support (IPS) program. Due to the notable success of the program during FY2019, the presence of IPS was expanded during FY2020 to include NSP, TSCI, and LCC, and was further expanded in FY2021, with trained IPS specialists at NCCW and OCC, and was brought to NCYF in FY2022. As of June 2023, 112 individuals had been trained. At three of the facilities (NSP, OCC, and TSCI), specialists were also trained as co-facilitators in Thinking for a Change. While the IPS program is available to all residents of NDCS, priority is given to those individuals residing in a restrictive housing setting.

In January 2021, digital workbooks were introduced at LCC, NCCW, NSP, and TSCI. The digital workbook is an electronic device that offers a variety of content to individuals in restrictive housing who are complying with their behavior programming plan. Access to the workbooks is offered three or more days per week for two or more hours at a time

and includes videos (e.g. Ted Talks, and exercise and meditation tutorials); hundreds of books (available in audio and reader format); applications that support learning and betterment in areas like foreign languages, spelling, cognitive exercises, yoga, math, and religion; and applications like coloring, sudoku and crossword puzzles. As a resource, the digital workbooks have been well-received by the population in restrictive housing, citing the opportunity to interact with modern technology that would otherwise be unavailable to them as well as the opportunity for self-betterment while in restrictive housing.

Appendix 2 provides a list of programs and services offered in restrictive housing at each facility. Table 7 below, provides a count of successful program completions during LTRH assignment in FY2023. Individuals may participate in multiple programs at a time and can elect to take a program more than once even after a prior successful completion. As such, the counts in Table 7 are representative of successful program completions and are not representative of unique individual participants.

Table 7: Program Completions while on LTRH Assignment During FY2023<sup>1</sup>

<b>Program Name</b>	<b>Count of Completions</b>
Anger Management High Risk High Need <sup>2</sup>	3
Challenge Series	43
Courage to Change	56
MRT Challenge Program	54
RH Reading Selection	24
Succeeding in Less Restrictive Settings <sup>2</sup>	8
Violence Reduction Program <sup>2,3</sup>	5
<b>Total</b>	<b>185</b>

<sup>1</sup>Individuals may complete multiple programs and/or complete a program more than once during a given LTRH stay or across multiple LTRH stays.

<sup>2</sup>Denotes program is delivered by clinical staff

<sup>3</sup> Individuals that engage in VRP while in restrictive housing may be transitioned to a less-restrictive setting to complete the program.

## Special Needs Populations

Two special needs populations warrant careful consideration in any discussion of restrictive housing: individuals needing protective management housing, and inmates with diagnosed mental illnesses. This section will briefly discuss these populations and their relation to restrictive housing; however, more detail will be provided in the Other Applicable Housing portion of this report.

### Protective Management

Protective management units are designed for inmates who cannot be safely housed in other general population units. These units operate similarly to general population units in terms of out-of-cell time, as well as access to programming, work, and recreation opportunities, and are not part of restrictive housing. Any discussion of restrictive housing would be incomplete without considering inmates with protective custody (PC) needs because of their contribution to the restrictive housing population. Recall from earlier sections of this report that people with PC needs, whether voluntary or involuntary, accounted for 47.18% of all immediate segregation (n=361) and 24.24% of longer-term restrictive housing assignments (n=16).

Presently, only individuals who have a PC investigation underway, refuse a protective management housing assignment (but cannot safely return to general population), or are awaiting bed space in protective management are assigned to restrictive housing. Upon such assignment, NDCS works with these individuals to identify the most appropriate alternative housing assignment at the earliest opportunity. Several changes were implemented during FY2019 to create a more efficient, effective process for managing these individuals and limiting the time they spend in restrictive housing. Such changes included: (1) transferring the PC investigation process from facility staff to members of the Intelligence Division, allowing investigations to be completed more quickly and comprehensively; (2) repurposing 32 restrictive housing beds at RTC into a Limited Movement Unit (LMU) (this unit closed May 1, 2023) to allow those who must be separated from other individuals while a permanent protective custody housing assignment, or alternative general population housing assignment, is made to stay in a general population environment; (3) MDRT requiring institutional staff to submit an IS extension while appropriate housing is found for individuals in need of PC placement, in lieu of assigning the person to LTRH; and (4) MDRT adding language to their assignment decisions allowing staff to remove people from LTRH status when appropriate bed spaces had been identified without the need for an additional MDRT review.

In April of 2021, NDCS expanded the availability and use of limited movement mission specific housing by bringing a 40 bed LMU online at NSP (this unit was closed May 5, 2023). The mission of the unit, like the aforementioned LMU at RTC, was to provide a less restrictive housing assignment for those that require separation from the general population while an alternative housing solution is identified. Protective Management will be discussed in greater detail in the Other Applicable Housing portion of this report.

### Mental Illness in Restrictive Housing

A primary area of concern in any restrictive housing discussion is how to address the needs of mentally ill individuals whose behavior presents a risk to themselves, others, and/or the safety and security of the institution. These individuals require a secure, therapeutic environment that provides critically needed mental health treatment while maintaining the safety of the patient, staff, and other individuals.

During FY2019, NDCS realigned the operations of the RTC Secure Mental Health Unit, which was an intensive therapeutic environment for individuals with serious, chronic, and persistent, mental health issues. This allowed the unit more flexibility in its operations and ability to manage inmates outside of a restrictive housing unit structure.

These units serve crucial functions within NDCS, especially in light of LB686 (2019), which prohibits NDCS from placing any member of a vulnerable population in a longer-term restrictive housing environment. A vulnerable population member is defined as "... an inmate who is eighteen years of age or younger, pregnant, or diagnosed with a serious mental illness as defined in section 44-792, a developmental disability as defined in section 71-1107, or a traumatic brain injury as defined in section 79-1118.01."<sup>9</sup> It should be recognized, however, that many persons with mental illnesses who are placed in restrictive housing are stabilized on medications and with other therapeutic interventions. Their placements in restrictive housing have nothing to do with their cognitive states, nor does the restrictive housing environment necessarily result in decompensation. During FY2023, 448 of the 1,303 unique people in restrictive housing (34.38%) at any point during the year, and 66.85 of the restrictive housing average daily population (30.56%), had a serious mental illness (SMI),<sup>10</sup> as defined in Nebraska Revised Statute 44-792(5)(b):

*Serious mental illness means, on and after January 1, 2002, any mental health condition that current medical science affirms is caused by a biological disorder of the brain and that substantially limits the life activities of the person with the serious mental illness. Serious mental illness includes, but is not limited to (i) schizophrenia, (ii) schizoaffective disorder, (iii) delusional disorder, (iv) bipolar affective disorder, (v) major depression, and (vi) obsessive compulsive disorder.*

Table 8 provides the serious mental illness diagnoses for these individuals.<sup>11</sup> A high priority for NDCS is to reduce assignments to restrictive housing for individuals whose functionality is impaired by their mental illnesses to restrictive housing and to limit the time these individuals spend outside of a general population or mission-specific housing assignment. To accomplish this, mental health treatment is provided to individuals in

<sup>9</sup> See page 9 for statutory definitions of serious mental illness, developmental disability, and traumatic brain injury.

<sup>10</sup> With the addition of new, and better, data tracking modules in NiCaMS during FY2020, behavioral health staff conducted significant reviews of inmate mental health histories to ensure all active diagnoses were accurate and clinically supported. Those conditions determined to have been entered in error, contradictory to another diagnosis, in remission, or otherwise invalid, were end-dated. To account for these data management practices, a person's SMI status for this report was based on his or her current diagnoses. This is in contrast to FY2019 report, in which diagnoses from a person's current and previous incarcerations were considered.

<sup>11</sup> Some people had more than one diagnosis, so the total count of diagnoses will exceed the number of individuals.

restrictive housing, and mental health staff partner with their clients to develop behavior and programming plans that allow individuals to gradually step down into less restrictive environments and transition to the mental health unit or general population.

Although some conditions may cause individuals to behave in disruptive ways or to decompensate when placed in a restricted environment, most inmates with a SMI are well-managed through a combination of medication, psychotherapy, and group-based interventions. By considering a person’s level of care in combination with his diagnoses, NDCS can more clearly identify the level of services and interventions appropriate for persons with SMI and ensure those who need enhanced levels of treatment receive such care. It is also important to note that while an individual with an SMI may be placed on LTRH status, those with a level of care of 3 or higher (3 – Chronic/Residential Services, 4 – Sub-Acute Services, 5 – Acute/Crisis Stabilization Services) are not placed in a restrictive housing setting

Table 8: Serious Mental Illness Diagnoses, FY2023

<u>Diagnosis</u>	<u>FY2023 Total</u>		<u>FY2023 ADP</u>	
	<u>Count of Individuals with Diagnosis</u>	<u>% of Diagnoses</u>	<u>ADP of Individuals with Diagnosis<sup>1</sup></u>	<u>% of Diagnoses</u>
Bipolar Disorder <sup>2</sup>	166	26.99%	25.07	25.89%
Major Depressive Disorder	181	29.43%	25.26	26.08%
Schizoaffective Disorder	100	16.26%	19.5	20.14%
Psychotic Disorder <sup>3</sup>	54	8.78%	12.36	12.76%
Schizophrenia	98	15.93%	13.07	13.50%
Obsessive Compulsive Disorder	10	1.63%	1.24	1.28%
Delusional Disorder	5	0.81%	0.34	0.35%
Schizophreniform Disorder	1	0.16%	0	0.00%
<b>Total Diagnoses among RH Population</b>	<b>615</b>	<b>100%</b>	<b>96.84</b>	<b>100.00%</b>
<b>Unique Individuals with Any Diagnosis</b>	<b>448</b>		<b>66.85</b>	

<sup>1</sup> Because individuals may have multiple diagnoses, the ADP and count of diagnoses will exceed the ADP and count of unique individuals in restrictive housing at any point during FY2023 with a serious mental illness.

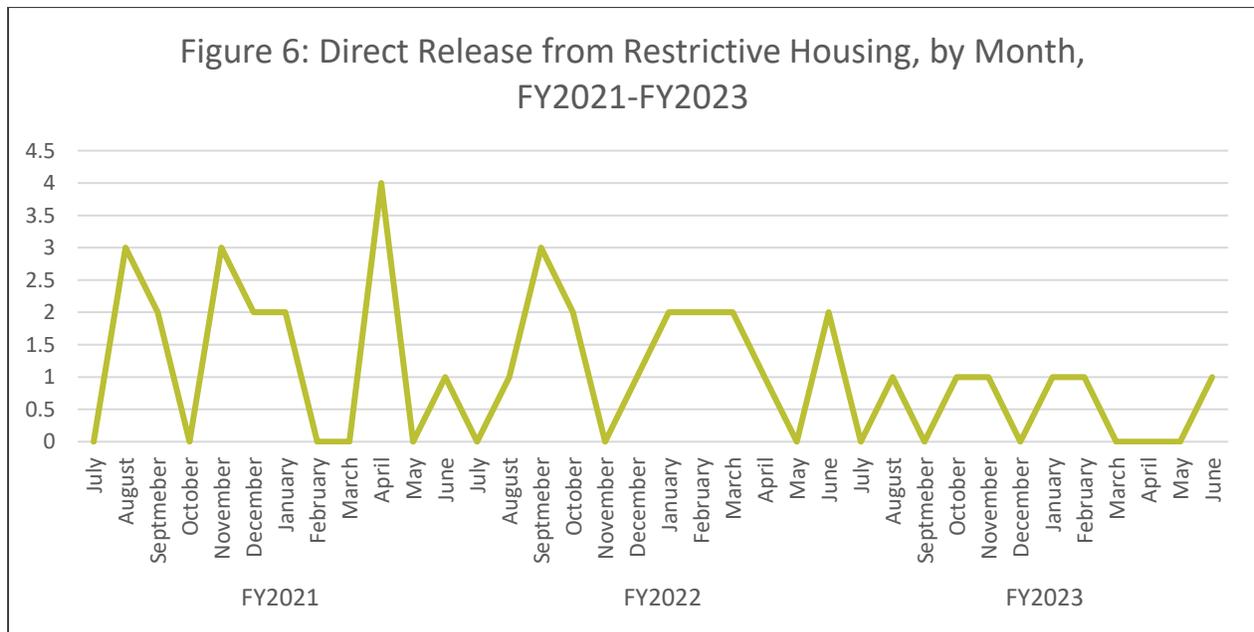
<sup>2</sup> “Bipolar Disorder” includes: Bipolar I Disorder, Bipolar II disorder, Bipolar Disorder NOS (not otherwise specified), and Substance/Medication-Induced Bipolar and Related Disorders.

<sup>3</sup> “Psychotic Disorder” includes: Brief Psychotic Disorder, Psychotic Disorder due to another Medical Condition, Psychotic Disorder NOS (not otherwise specified), and Substance/Medication-Induced Psychotic Disorders

**Direct Releases from Restrictive Housing to the Community**

In addition to the use of restrictive housing for risk reduction purposes, another central objective of NDCS’s ongoing restrictive housing reform is to reduce the number of individuals who discharge directly from restrictive housing into the community. Consistent with the department’s mission, “Keep People Safe,” multiple measures have been put into place to prevent as many people as possible from releasing to the community without a period of transition through general population. The Discharge Review Team is required to review every person in restrictive housing within 120 days of their release. Facility staff also collaborate with individuals to develop a release plan that allows them to transition out of restrictive housing and into general population, mission-specific housing, or treatment/behavioral-focused housing prior to release, whenever possible. Moreover, individuals who have spent more than 60 days in restrictive housing in the 150 days prior to their release have specialized reentry plans developed to avoid mandatory discharge from restrictive housing.

During FY2023, 6 people released from restrictive housing into the community. This is the lowest number in five years. Of these 6, three finished their sentences and were directly discharged from NDCS, one was released into the community under parole supervision, and two were released to complete their term under post-release supervision. Figure 6 shows the monthly counts of restrictive housing direct releases between FY2021 and FY2023; Appendix 3 provides information about the individuals directly discharged during FY2023 and their restrictive housing placements.



There was less fluctuation in the number of individuals directly released from restrictive housing over the course of FY2023 than in previous years. No one was released directly from RH in July, September, or December of 2022, nor in March, April, and May of 2023. The average amount of time spent in restrictive housing prior to discharge for

these individuals was 15.33 days, although the range of actual time spent was between one and 52 days. The median length of time for these persons was 7 days, which is more representative of actual time served as 83.33% of individuals were in restrictive housing for 21 days or less before they were released (5 of 6). A total of 2 people were released to a detainer (both were on IS status at the time of release). A total of 4 individuals requested to enter RH by requesting Protective Management which equates to 66.66% of those who discharged from RH into the community. Those that requested Protective Management had 21 days or less remaining in their institutional sentence. The remaining two were placed in RH for serious acts of violence (1) or threats of violence (1), however this event also noted the individual was refusing housing.

Table 9: Direct Discharge to the Community

Reason for Restrictive Housing Placement	IS Status	LTRH Status	Total
1. Serious act of violent behavior	0	1	1
2. Recent escape or attempted escape	0	0	0
3. Threats or actions of violence	1	0	1
4. Active membership in a Security Threat Group	0	0	0
5. Incitement or threats to incite group disturbances	0	0	0
6. Presence in general population will create a significant risk of physical harm	4	0	4
<b>Total</b>	<b>5</b>	<b>1</b>	<b>6</b>

It is important to note that the risk a person poses to the safety of others in a prison environment does not necessarily translate into the same level and type of risk they may pose to others in the community once released.<sup>12</sup> For example, most incidents of prison violence are targeted at those within the prison STG structure and inmate hierarchy, or at authority figures. In this way, they are a means for someone to demonstrate the degree of power and control they are able to exert over others, and the threat they pose to those who subscribed to different ideologies or would try to control their behavior. This influence is easier to wield in prison where options for the targets of such aggression to physically leave a situation are more limited than in the community. In addition, the informal prison subculture requires individuals respond to perceived disrespect, most often with violence. In the community, responses to perceived disrespect may take different forms, and when violent, may involve a lower level of physical harm than what is expected to occur within prison.

Recall from above that over half of the people who left restrictive housing voluntarily placed themselves in an environment that would minimize the likelihood of their release being jeopardized. In many of these instances, individuals had very little time before their upcoming release when placing themselves in restrictive housing. Despite them voluntarily entering restrictive housing prior to their releases, alternative and less restrictive housing options were continuously pursued.

<sup>12</sup> Mears, D.P., Stewart, E.A., Siennick, S.E., & Simons, R.L. (2013). The code of the street and inmate violence: Investigating the salience of imported belief systems. *Criminology*, 51(3), 695-728.

## Restrictive Housing Use in Surrounding States

As noted in reports from previous years, it is incredibly difficult to find standardized definitions of restrictive housing policies and practices across states. Attempts in prior years to collect exact data through a customized survey distributed by the Correctional Leaders Association (previously the Association of State Correctional Administrators [ASCA]) resulted in low response rates and continued definitional differences. Lack of data collection in an easily retrievable way prevented some states from being able to respond. Data in this report has been compiled from the most recent, most comprehensive, national study of restrictive housing conducted in collaboration with the Correctional Leaders Association (CLA) and The Liman Center for Public Interest Law at Yale Law School (Liman), specifically their August 2022 publication, "[Time-In-Cell: A 2021 Snapshot of Restrictive Housing based on a Nationwide Survey of U.S. Prison Systems](#)"<sup>13</sup>,

The 2021 CLA-Liman report is the sixth publication of cross-state comparisons on the use of restrictive housing in the United States. Data for this report was collected from surveys administered through CLA to all 50 states, the Federal Bureau of Prisons, the District of Columbia, and four large metropolitan jail systems. In addition to total system and restrictive housing population numbers, the survey includes data on the number of individuals with mental illnesses in restrictive housing, as well as measures regarding length of stay in restrictive housing, gender, race and ethnicity, and age. This information is presented in more detail in the tables that follow. Please note that each table in this section contains two data points for Nebraska. The first is the data provided by Nebraska for the CLA-Liman report. This data is different than the average daily population measures presented throughout the Restrictive Housing Annual Report due to differences in counting rules and the timeframe under examination. More specifically, the CLA-Liman data is based on a snapshot of the NDCS population at the beginning of July of 2021. The CLA-Liman survey's definition of restrictive housing excludes individuals with a length of stay in a restrictive housing environment that is 14 days or less. The ADP values from this year's Restrictive Housing Annual Report have been provided to illustrate what the FY2023 data looks like after controlling for normal fluctuations that occur within any population and includes individuals that were housed in restrictive housing for 14 days or less.

The 2021 CLA-Liman report notes that the 34 reporting jurisdictions identified a total of 731,202 individuals under their direct control, of whom 25,083 (or 3.4%) were held in restrictive housing.

### Race, Gender, Age, and Length of Stay

Regarding the demographics of restrictive housing populations, nationally, racial/ethnic minorities are somewhat overrepresented in restrictive housing populations relative to white inmates. Table 10a provides the total agency population for each state

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<sup>13</sup> For more information about the 2021 CLA-Liman report, its background, the data selected for use in this report, and clarification on definitions used throughout the study, please refer to the original document, available at <https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1025&context=amlaw>.

surrounding Nebraska, broken down by race/ethnicity, while Table 10b provides the restrictive housing racial/ethnic distribution for each of these agencies.

Table 10a: Agency Population by Race/Ethnicity, 2021 CLA-Liman Data<sup>1</sup>

<u>Race/Ethnicity</u>	<u>Iowa</u>	<u>Kansas</u>	<u>Nebraska</u>	<u>South Dakota</u>	<u>Wyoming</u>	<u>Nebraska (FY2023 ADP)<sup>2</sup></u>
ASIAN	(not reported)	70	45	26	7	42.99
BLACK	1,968	2,349	1,508	277	99	1,612.87
HISPANIC	551	1,071	790	148	257	866.68
NATIVE AMERICAN	179	233	271	1,165	165	279.28
OTHER	79	(not reported)	58	10	4	63.85
PACIFIC ISLANDER	(not reported)	(not reported)	2	1	7	4.70
WHITE	4,977	4,848	2,774	1,725	1,655	2,789.31
Total	7,754	8,571	5,448	3,352	2,194	5,659.68

<sup>1</sup>Information on race/ethnicity for Colorado was excluded because they do not have individuals that fall within the survey parameters of restrictive housing. Information on race/ethnicity was not reported by Missouri.

<sup>2</sup>Excludes individuals that did not provide race/ethnicity information.

Table 10b: Restrictive Housing Population by Race/Ethnicity, 2021 CLA-Liman Data<sup>1</sup>

<u>Race/Ethnicity</u>	<u>Iowa</u>	<u>Kansas</u>	<u>Nebraska</u>	<u>South Dakota</u>	<u>Wyoming</u>	<u>Nebraska (FY2023 ADP)<sup>2</sup></u>
ASIAN	(not reported)	0	0	0	0	2.47
BLACK	170	183	50	5	1	66.87
HISPANIC	58	95	40	2	3	61.46
NATIVE AMERICAN	9	7	19	26	2	14.11
OTHER <sup>2</sup>	4	(not reported)	1	0	0	1.37
PACIFIC ISLANDER	(not reported)	(not reported)	0	0	0	0.08
WHITE	321	319	76	18	18	72.41
Total	562	604	186	51	24	218.77

<sup>1</sup>Information on race/ethnicity for Colorado was excluded because they do not have individuals that fall within the survey parameters of restrictive housing. Information on race/ethnicity was not reported by Missouri. Excludes stays in restrictive housing of 14 days or less.

<sup>2</sup>Excludes individuals that did not provide race/ethnicity information. Includes individuals with a length of stay of 14 days or less.

Please note that not all jurisdictions reported on each racial/ethnic category, and Missouri did not provide any racial/ethnic distributions to the CLA-Liman study. For additional information about national trends in the use of restrictive housing by race/ethnicity, please refer to the original 2021 CLA-Liman report.

It is not surprising that a higher proportion of restrictive housing populations, nationally, is comprised of males relative to females (the median percentage for males was 3.4% and 0.7% of females held in restrictive housing). This same trend exists in Nebraska as Nebraska does not house females in restrictive housing. Table 11 provides the distribution of males and females in restrictive housing in surrounding states.

Table 11: Restrictive Housing Population for Surrounding States by Gender, 2021 CLA-Liman Data<sup>1</sup>

<b>State</b>	<b>Total System Population</b>	<b>Total Restrictive Housing Population</b>	<b>Males in Restrictive Housing</b>	<b>Females in Restrictive Housing</b>
Iowa	7,754	562	546	16
Kansas	8,571	604	600	4
Nebraska	5,448	186	182	4
South Dakota	3,352	51	51	0
Wyoming	2,194	24	24	0
Nebraska (FY2023 ADP) <sup>2</sup>	5,659.68	218.77	218.77	0

<sup>1</sup>Information on gender for Colorado was excluded because they do not have individuals that fall within the survey parameters of restrictive housing. Information on gender was not reported by Missouri. Excludes stays in restrictive housing of 14 days or less.

<sup>2</sup> Includes individuals with a length of stay of 14 days or less.

Nationally, most individuals in restrictive housing are between the ages of 26 and 50. This is consistent with Nebraska where 71.33% of those in restrictive housing are between the ages of 27 and 51. Table 12 provides the age distribution for the restrictive housing populations in states surrounding Nebraska.

Table 12: Restrictive Housing Population by Age Group, 2021 CLA-Liman Data<sup>1</sup>

<u>Age Group</u>	<u>Iowa</u>	<u>Kansas</u>	<u>Nebraska</u>	<u>South Dakota</u>	<u>Wyoming</u>	<u>Nebraska (FY2023 ADP)<sup>2</sup></u>
Under 18	2	0	0	0	0	0.32 (18 and under)
18-25	143	61	43	16	3	51.81 (19-26)
26-50	384	455	133	33	19	156.05 (27-51)
51-70	33	84	10	2	2	8.08 (52-61)
Over 70	0	4	0	0	0	2.51 (62+)
Total	562	604	186	51	24	218.77

<sup>1</sup>Information on age for Colorado was excluded because they do not have individuals that fall within the survey parameters of restrictive housing. Information on age was not reported by Missouri. Excludes stays in restrictive housing of 14 days or less.

<sup>2</sup> Includes individuals with a length of stay of 14 days or less.

Thirty-three jurisdictions reported information regarding the amount of time individuals were held in restrictive housing. This information is presented in Figure 7 and Table 13.

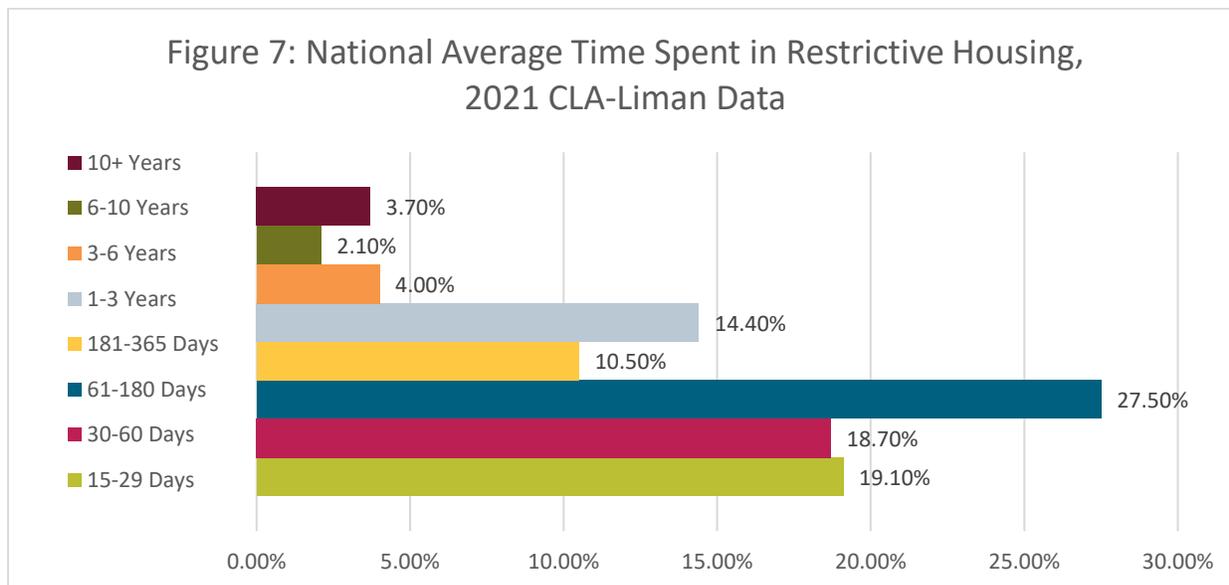


Table 13: Length of Stay for Surrounding States, 2021 CLA-Liman Data<sup>1</sup>

<b>State</b>	<b>15-29 Days</b>	<b>30-60 Days</b>	<b>61-180 Days</b>	<b>181- 365 Days</b>	<b>1 – 3 Years</b>	<b>3 – 6 Years</b>	<b>6 Years or More</b>
Iowa	423	47	59	22	11	0	0
Kansas	135	152	212	59	46	0	0
Nebraska	27	32	65	28	18	16	0
South Dakota	0	7	18	11	13	1	1
Wyoming	12	6	2	1	3	0	0
Nebraska (all FY2023 RH events) <sup>2</sup>	268	209	176	95	69		

<sup>1</sup>Missouri did not report on length of stay in restrictive housing. Colorado was excluded because they do not have individuals that fall within the survey parameters of restrictive housing

<sup>2</sup>Excludes RH events that were 14 days or less.

### Mental Illness in Restrictive Housing, Nationally

As noted on page 51 in the 2021 CLA-Liman report:

*...definitions of “serious mental illness” vary substantially across jurisdictions. Sources for definitions include correctional agency rules, sometimes keyed to psychiatric manuals, statutes, and rulings by courts. Thus, some jurisdictions have adopted the ACA’s definition of serious mental illness. Others define SMI through certain diagnoses, and the terms and scope of included diagnoses vary. Other jurisdictions relied on mental health professionals’ individual assessments of the severity of a person’s illness. Given the variation in the scope and detail of jurisdictions’ definitions, a person could be classified as seriously mentally ill in one jurisdiction and not in another.*

Because of these definitional differences, it is difficult to make cross-state comparisons about the use of restrictive housing for individuals with mental illnesses. The report further notes that the data in the report has not been scaled nor transformed in any other way to allow for comparisons, but is instead, reported as provided by each jurisdiction. Table 14 provides the count of individuals in restrictive housing in each of the surrounding states who are noted by that agency to have a serious mental illness.

Table 14: Inmates with Serious Mental Illnesses (SMI) in Restrictive Housing in Surrounding States, 2021 CLA-Liman Data<sup>1</sup>

State	Custodial Population with SMI	Population with SMI in RH
Iowa	1,504	150
Kansas	1,842	309
Nebraska	1,725	47
South Dakota	154	0
Nebraska (FY2023 ADP) <sup>2</sup>	(not reported)	66.85

<sup>1</sup>Information for Colorado was excluded because they do not have individuals that fall within the survey parameters of restrictive housing. Information on SMI population was not reported by Missouri or Wyoming. Excludes individuals with a length of stay of 14 days or less.

<sup>2</sup> Includes individuals with a length of stay of 14 days or less.

### Reasons for Placement and Community Releases, Nationally

The 2021 CLA-Liman is the first year that the survey obtained data for the reasons for placement in restrictive housing across jurisdictions. The categorizations offered are “administrative”, “safety”, “punishment”, “personal choice”, “COVID-19”, and “other”. It is worth noting that like the challenges in defining serious mental illness across jurisdictions, there is also variance among the categorizations of reasons for placement into restrictive housing. What may qualify as “safety” from one jurisdiction may be counted as “administrative” in another. For Nebraska, reasons one through five (Serious act of violent behavior, Recent escape or attempted escape, Threats or actions of violence, Active membership in a Security Threat Group, Incitement or threats to incite group disturbances) were included in the “Safety” category, and reason six (Presence in

General Population will create a significant risk of physical harm) was categorized as “Personal Choice” with the exception of those with a placement reason of six and a subcategorization of “Other”. The latter individuals were categorized as “Other” for the purposes of the CLA-Liman survey.

Table 15: Reasons for Placement for Surrounding States, 2021 CLA-Liman Data<sup>1,2</sup>

State	Administrative	Safety	Punishment	Personal Choice	COVID-19	Other
Iowa	159	68	267	68	(not reported)	(not reported)
Kansas	380	1	55	166	2	0
Nebraska	0	156	0	27	0	3
South Dakota	(not reported)	50	(not reported)	(not reported)	(not reported)	1
Wyoming	0	0	23	0	0	1
Nebraska (all FY2023 IS placements)	0	1,003	0	714	0	50

<sup>1</sup>Missouri did not report on placement reasons to restrictive housing. Colorado was excluded because they do not have individuals that fall within the survey parameters of restrictive housing. Excludes individuals with a length of stay of 14 days or less.

<sup>2</sup> Includes individuals with a length of stay of 14 days or less and excludes holding events without IS placement.

Another addition to the 2021 CLA-Liman survey are data focused on releases from restrictive housing back to the general prison population and direct releases from restrictive housing to the community. For more detailed information on the individuals released from restrictive housing to the community in Nebraska, see Appendix 3.

Table 16: Individuals Released back to General Population and Direct Releases to the Community during FY2021 for Surrounding States<sup>1</sup>

State	Released to General Population	Released to the Community
Iowa	390	5
Nebraska <sup>2</sup>	833	17
South Dakota	104	4
Wyoming	0	0
Nebraska (FY2023 ADP)	Not reported	6

<sup>1</sup>Kansas and Missouri did not report on releases from restrictive housing. Colorado was excluded because they do not have individuals that fall within the survey parameters of restrictive housing.

<sup>2</sup>Representative of the total number of unique individuals that had a restrictive housing event end between 7/1/2020 and 7/1/2021. Only restrictive housing events with a length of stay of 15 days or more are included. Total number of qualifying restrictive housing events that ended in the timeframe was 1,010.

## Other Applicable Housing

### General facility trends

As discussed previously, this report will provide information on housing unit assignments that are neither restrictive housing nor general population (“Other Applicable Housing”). If a housing unit does not meet all of the following requirements to be considered general population under statute, then those units are included in this section: an inmate housing area that allows out-of-cell movement without the use of restraints, a minimum of six hours per day of out-of-cell time, regular access to programming areas outside the living unit, and access to services available to the broader population.

Other applicable housing units are divided amongst four facilities, these facilities are NSP, RTC, TSCI and NCCW. NDCS has allocated significant resources to reduce the number of individuals housed in these units. For this reason, many of the older units that were discontinued and several newer units were opened with new purposes. These units will be described in further detail later in this report.

The three types of other applicable housing that will be discussed are:

- (1) Limited Movement Unit (LMU),
- (2) Health Services Units (Skilled Nursing Facilities and Mental Health Units), and
- (3) High-Security General Population Unit (HS-GP) (Protective Management, RTC F/G Units, and the NCCW Behavior Intervention and Program Unit).

Table 17: Types of Other Applicable Housing Units by Facility

Facility	Limited Movement Units	High-Security General Population	Mental Health Units	Skilled Nursing Facilities
RTC	Closed 5/1/23	Active 1/18/23	Active	Active
TSCI	~	Closed 1/18/23	Active	Active
NSP	Closed 5/5/23	~	~	Closed 11/1/22
NCCW	~	Active	~	Active

### Limited Movement Unit (LMU):

During FY2023 two housing units were classified as LMUs, these were NSP Housing Unit 4D and RTC C2, both units transitioned to general population housing in May 2023. LMUs are no longer used by NDCS, however during FY2023 when the units were active, they were considered Mission Specific Housing. The use of limited movement units increased the amount of out of cell activities for those individuals while ensuring their safety as well. Assignment to an LMU was designed to be a temporary placement offering a less restrictive environment for individuals requesting protective management

until the classification action to determine their appropriate facility placement could be completed.

The structure of LMU required adequately trained staff to maintain the safety and consistency of the unit's structure and day to day operations. Minimum staffing requirements were a control corporal and a floor corporal/unit caseworker; additional staffing resources included one unit manager and one case manager to support the classification process needed for this type of unit.

LMU, to the extent possible, consisted of conditions similar to general population some examples of the unit conditions included:

- A minimum of 6 hours of out-of-cell time were provided, which was comprised of access to showers consistent with institutional scheduling, dayrooms, scheduled programming, and outdoor recreation on a scheduled basis as determined by facility procedures.
- Access to dayrooms, programming, and recreation activities were in groups of no more than sixteen at the discretion of the Unit Manager in collaboration with unit management staff, the Program Manager, and the Warden/Designee.
- Showers were open to inmates during open yard and/or open dayroom times seven days a week. However, this was subject to change based upon institutional scheduling and needs which was consistent with general population expectations.
- Laundry was exchanged on the same basis as that of general population.
- All medications were distributed on the unit.
- Inmate's participation in activities outside the unit were permitted with a pass only. All movement outside of the unit was completed under escorted. (Individuals assigned to LMU were not escorted in restraints in the unit or throughout the facility unless they presented a security risk and were under escort to holding or restrictive housing.)
- Individuals received meals in the dayroom areas. They ate in groups of no more than sixteen total.
- Visits were permitted consistent with the previously established facility schedule.
- Individuals were able to purchase phone time, media time and legal materials consistent with facility limits and were permitted standard canteen privileges.
- Individuals could be issued ear buds and permitted their personal television. If an individual did not own a television one was provided.
- Hygiene items were provided consistent with general population indigent policy/procedure. Personally purchased hygiene products were permitted.
- Individuals were provided access to e-messaging kiosks on the unit.
- All individuals assigned to LMU were assigned a job on the unit.

#### Skilled Nursing Facilities (SNF):

NDCS provides comprehensive health care to the patient population, to facilitate these services RTC, TSCI, NSP and NCCW maintain a Skilled Nursing Facility (SNF) within the facility. Care beyond the resources provided by the SNF will be provided using community resources. While each SNF has their own procedures they all have

overriding requirements to be considered a licensed Skilled Nursing Facility; these requirements include:

- The definition of the scope of infirmary care services available
  - Each SNF provides the following levels of care:
    - Acute In-Patient Stay
    - Chronic Care Stay (SNF care longer than 30 days)
    - Short Stay (must be admitted if need persists over 24-hours)
- A physician on call 24 hours a day or available twenty-four hours per day
- Health care personnel with access to a provider or Registered Nurse
- Health care personnel on duty 24 hours per day
- All patients within sight or sound of a team member
- A manual of nursing care procedures
- An infirmary record that is a separate and distinct section of the medical record
- Compliance with applicable State statutes and local licensing requirements

**Medical Staffing Requirements:**

Senior Physician at the assigned facility will serve as the Healthcare Coordinator for the Skilled Nursing Facility. They will ensure a Medical Officer of the Day roster is maintained to provide on-call service 24-hours per day. This roster will utilize all full-time Physicians, Nurse Practitioners and Physician Assistants employed at various NDCS medical facilities. A physician will be designated on backup call for each physician's assistant/nurse practitioner. The Director of Nursing at each facility, who is required to be a registered nurse, is responsible for all nursing services to include the availability of on-site 24-hour nursing care. Responsibility for the day-to-day operation of the SNF rests jointly with the Healthcare Coordinator, Director of Nursing, Associate Warden, and Warden. The Institutional Healthcare Coordinator and the NDCS Health Care Administrator will ensure the SNF retains a current State of Nebraska license.

**Mental Health Unit (MHU):**

The mission of the Mental Health Units (MHU) is to provide optimal management of NDCS' Special Needs Individuals in a safe and secure therapeutic environment. The MHU utilizes a collaborative, multi-disciplinary approach to facilitate psychiatric stabilization and help the individual achieve their highest level of functioning. The overall goal is to increase the probability of a successful transition to general population. A wide range of services are necessary to identify, evaluate, diagnose, and treat these individuals successfully. These services are provided by qualified mental health professionals who meet the educational and license/certification criteria. The focus of the Mental Health Unit is to provide individuals with a safe, psychologically healthy environment that promotes positive change and growth. Individuals will be offered stabilization and treatment services.

Individuals who have been screened and identified as having a Serious Mental Illness (SMI), and whose mental health concerns cannot be safely/effectively managed in a general population setting may be eligible to be transferred to an MHU. Individuals referred to MHU are screened by a Qualified Mental Health Professional (QMHP) who considers both diagnostic criteria and functional impairment. Individuals who present with functional impairment, suicidal ideation, or other psychiatric concerns may be

further assessed for a higher level of care. Any QMHP may recommend MHU placement for individuals requiring Chronic Care treatment. Consultation between the referring QMHP and the MHU providers should occur to coordinate placement of an individual. Placement may also be decided by a MHU Multi-Disciplinary Team (MDT). The MHU MDT will consist of a psychiatrist, psychologist, Warden/designee, mental health practitioner, nurse, social worker, behavioral health caseworker and a representative of the institutional unit staff. The MHU MDT will consider multiple factors, including the individual's special management needs, the specific circumstances that require the individual to reside in a more controlled housing setting in lieu other general population housing assignment, and overall safety/security factors. If there is not consensus regarding the recommendation, the Medical Director shall determine formal disposition of assignment.

Staffing requirements for a MHU includes: a psychiatrist, psychologist, mental health practitioners, psychiatric nurse, behavioral health caseworkers, certified master social worker and a clinical treatment manager. A control corporal and floor corporal/unit caseworker are also on the unit. Each unit also has the addition of a unit manager and at least one case manager as an additional resource.

#### Protective Management (PM):

Protective Management units are considered Mission Specific Housing; these units are designed for inmates who cannot be safely housed in other general population units. Protective management is the classification status of an inmate who is housed in a safe location to reduce the risk of harm by others while having privileges similar to general population housing in terms of out-of-cell time, as well as access to programming, work, and recreation opportunities, and are not part of restrictive housing. Any inmate may request protective management, alternatively it may be determined that an individual needs to be placed on involuntary protective management for their own safety. These individuals will participate in a Protective Management Investigation completed by designated intelligence staff. The investigation will be reviewed, and information verified to determine if the individual will be classified to the Protective Management Unit. The Warden and/or designee will approve/deny protective management placements.

Staffing requirements for PM Units varies by facility; however, each unit has a control corporal and a floor corporal/unit caseworker. Each PM Unit also has the additional resources of a unit manager and at least one case manager.

Programming and services provided are similar to general population. Programming will be discussed in a later section; however, the following services are made available to the PM individuals: education, library/law library, supervised yard access, gym activities, medical/mental health/dental, canteen, mail, visiting, telephone access, and religious services.

If an individual decides they no longer need/want protective management, they can notify their housing unit staff and sign the Refusal for Protective Custody form. This request will be reviewed and approved/denied depending on the safety/security of the facility and the individual. If approved, the individual will be reclassified to general population and removed from the Protective Management Unit based on bed space and availability.

### RTC F/G Units:

In FY2023 a new 384-bed unit was opened at the RTC; this unit (F/G Unit) is considered Mission Specific Housing. F/G Unit is used to reduce the use of restrictive housing for special populations that require a controlled and structured environment and are classified to Maximum 1A custody. The purpose of F/G Unit is to provide a structured environment with conditions of confinement like a General Population setting for individuals whose behavior and institutional history demonstrate a pattern of high-risk behavior that in turn poses a significant risk to the safe and effective operation of NDCS facilities. During FY2023, this unit operated with six hours out-of-cell time daily.

Staffing requirements for F/G Unit from 0700-1900 is eight floor corporals, four control corporals, six utility staff, and two sergeants. Staffing requirements for F/G Unit from 1900-0700 is four floor corporals, two control corporals, four utility staff, and one sergeant. F/G Unit also have the additional resources of a unit manager and six case managers.

Due to the high-risk nature of this population a strict schedule in which movement is controlled and monitored is utilized to minimize risk to staff and other individuals as well as manage a safe and successful housing unit. F Unit and G Unit have one shared yard each; due to the nature of the groups in which the individuals are assigned, they are not permitted to intermingle or have direct contact. F1/F2 and G1/G2 will have alternating Yard and Dayroom schedules to ensure groups from F1 do not have contact with F2. The same is true for G1/G2. This highly structured environment serves a dual purpose by reducing the use of restrictive housing and giving the individuals that have been on LTRH the opportunity to transition to a less restrictive setting before reintegrating with general population; and reducing the use of restrictive housing when used as an alternative to LTRH placement. NDCS mitigates the higher risk of violence towards staff by ensuring staff are trained and properly equipped with the necessary tools to maintain a safe and secure environment.

### Behavior Intervention and Programming Unit (BIPU):

One final shift in population management that began in FY2021, and came to fruition at the beginning of FY2022, was the elimination of restrictive housing at NCCW. On July 26, 2021, the Nebraska Correctional Center for Women (NCCW) discontinued the use of restrictive housing, and the Behavior Intervention and Programming Unit (BIPU) was developed to replace the use of immediate segregation and longer-term restrictive housing. The BIPU functions as a controlled movement unit, and the individuals assigned to the BIPU have demonstrated institutional behavior that is disruptive to the effective operations of the facility. The BIPU is a gender responsive approach to reducing trauma during incarceration, with the objective of identifying high-risk

behaviors and addressing those behaviors through interventions such as cognitive behavioral programming, clinical programming, and intentional peer support. Programming can be completed in rooms and outside of the unit.

The BIPU allows NCCW team members to identify and target the specific needs of an individual. Shift supervisors can place individuals in the BIPU if they become disruptive to the facility and all placements are reviewed by the warden/designee within 72 hours of placement. After initial placement, each woman in the BIPU is reviewed weekly to determine their progress and identify programming needs with the focus being successful transition and return of residents to general population. As a mission-specific housing unit, the BIPU has similar conditions of confinement as those found in the general population. The unit allows for at least six hours out-of-cell each day, congregate activities, full property and canteen privileges, and less use of physical restraints. The residents can participate in an incentive program that encourages pro-social behaviors and allows them to work toward assignment back to general population. With the success of this program, NDCS has considered additional options at the all-male facilities to give the male population the opportunity to transition out of restrictive housing in a different manner. This is a goal for FY2024.

Other Applicable Housing Unit ADP and Average Length of Stay:<sup>14</sup>

ADP Distribution by Facility:

Table 18: Other Applicable Housing Average Daily Population (ADP) by Facility

Facility	FY2023 ADP	% Of Total Population
<b>RTC</b>	351	78.66%
<b>TSCI</b>	47	10.62%
<b>NSP</b>	37	8.38%
<b>NCCW</b>	10	2.35%
<b>Total</b>	446	100%

Table 19: Other Applicable Housing Average Length of Stay by Type<sup>15</sup>

Type	Length of Stay
<b>LMU</b>	90.18 Days
<b>HS-GP</b>	89.18 Days
<b>Health Services Units</b>	71.10 Days

Table 20: Other Applicable Housing ADP by Unit Type

Type	ADP
<b>LMU</b>	82.03
<b>HS-GP</b>	159.30
<b>Health Services Units</b>	205.13

<sup>14</sup> In Tables 19 through 21, "LMU" includes the two limited movement units previously in operation at RTC and NSP; "HS-GP" includes F/G Units at RTC, BIPU at NCCW, and protective management units; and "Health Services Units" includes both mental health units and skilled nursing facilities.

<sup>15</sup> The average length of stay provided is an average of the cumulative time an individual placed in one of these units spent in those units during the fiscal year. This table does not provide the average length of time individuals continuously spent in one of these units.

**Table 21: Program Completions by SMU Type**

Program Name	LMU Count of Completions	HS-GP Count of Completions	Health Services Units Count of Completions
Anger Management High Risk/High Needs	0	0	6
7 habits on the inside	0	1	12
Courage to Change	0	8	12
Destination Dad	5	1	3
Getting It Right	0	2	0
MRT	0	1	0
Thinking for a Change	0	13	17
Violence Reduction Program	4	0	1
<b>Total</b>	<b>9</b>	<b>29</b>	<b>60</b>

**Programming in Other Applicable Housing Units**

Programming offered in Other Applicable Housing Units varies based on the population assigned to that unit. As stated previously, LMU has been reallocated to a general population unit and, therefore, is no longer included in these numbers. The Violence Reduction Program is offered in the new F/G unit, however it is a six-month program that starts in January and July, as such there was a group that started in July 2023 but not during the FY2023. Health Services Units boast the highest number of program completions and that is due in large part to their compliance with programming in general. Health Services Units consist of Mental Health and Skilled Nursing, a population that does not typically engage in high-risk behaviors.

## Conclusion

This report illustrates the strides NDCS has made since FY2016 in reducing the use of restrictive housing. The average daily restrictive housing population has declined from about 372 people in FY2019 to 219 in FY2023, which is a 41.13% decrease. This reduction can be attributed to changes in the management of special populations throughout the agency, legislative changes related to restrictive housing, and increased programming opportunities. In addition, NDCS has refined the reasons for assigning an individual to restrictive housing which provides further clarification to the team members placing individuals on immediate segregation status and consequently referring those individuals to longer-term restrictive housing or releasing them to a lesser restrictive setting. During FY2023, many of the restrictive housing placements were related to a serious act of violent behavior or threats or actions of violence, and fewer placements were due to the overall significant risk of physical harm a person's presence might create in general population.

In FY2023, the new 384 bed maximum-security unit at the RTC allowed for additional management strategies for the higher security risk individuals. This unit has led to fewer individuals being placed on immediate segregation for risk of physical harm a person's presence might create in general population. FY 2022 showed 913 immediate segregation placements for this reason (434 of these were requests for protective custody) while FY 2023 showed 765 immediate segregation placements (352 of these were requests for protective custody). This data demonstrates just one of the ways the 384-bed expansion has mitigated some of the risk in general population. By housing the higher-risk, dangerous individuals in a separate unit, NDCS gives individuals who would typically request protective custody the confidence to reside in their assigned living location with an assurance that the risk of physical harm has been reduced. This has also lowered the risk of team member assaults in other general population areas, allowing those areas to continue operations as normal which lessens the risk of modified operations that causes stress and tension amongst the population.

FY2023 is the first cycle of reporting for the Other Applicable Housing Units, therefore, it is not possible to compare data from previous years. However, reviewing the data shows that NDCS has made positive changes to the missions of each unit to provide less restrictive alternatives. This ultimately benefits both the individual and the facilities.

Appendix 1: Longer-Term Restrictive Housing Referral Outcomes, FY2021 through FY2023

Table A1a: Longer-Term Restrictive Housing Referral Outcomes, FY2021

<u>Facility Submissions</u>		<u>MDRT Decision</u>			
<u>Recommendation</u>	<u># of Referrals</u>	<u>Assign</u>	<u>Continue</u>	<u>Remove</u>	<u>MDRT Approval Rate</u>
Assign to LTRH	401	293	-	108	73.07%
Continue Placement	896	-	717	179	80.02%
Remove	95	-	7	88	92.63%
<b>Total</b>	<b>1392</b>	<b>293</b>	<b>724</b>	<b>375</b>	

Table A1b: Longer-Term Restrictive Housing Referral Outcomes, FY2022

<u>Facility Submissions</u>		<u>MDRT Decision</u>			
<u>Recommendation</u>	<u># of Referrals</u>	<u>Assign</u>	<u>Continue</u>	<u>Remove</u>	<u>MDRT Approval Rate</u>
Assign to LTRH	416	339	-	77	81.49%
Continue Placement	891	-	728	163	81.71%
Remove	137	1	11	125	91.24%
<b>Total</b>	<b>1444</b>	<b>340</b>	<b>739</b>	<b>365</b>	

Table A1c: Longer-Term Restrictive Housing Referral Outcomes, FY2023

<u>Facility Submissions</u>		<u>MDRT Decision</u>			
<u>Recommendation</u>	<u># of Referrals</u>	<u>Assign</u>	<u>Continue</u>	<u>Remove</u>	<u>MDRT Approval Rate</u>
Assign to LTRH	321	284	0	37	88.47%
Continue Placement	885	0	707	178	79.89%
Remove	271	1	23	247	91.14%
<b>Total</b>	<b>1,477</b>	<b>285</b>	<b>730</b>	<b>462</b>	

Appendix 2: Longer-Term Restrictive Housing Programs and Services by Facility, FY2023

<b>Program Name</b>	<b>Description</b>	<b>RTC</b>	<b>NSP</b>	<b>TSCI</b>
Adult Secondary Education	<i>Helps students prepare for taking the high school equivalency test</i>	X	X	X
Anger Management High Risk High Need*	<i>Provides instruction and practice on basic anger control strategies in a group facilitated by clinicians</i>	X	X	X
Challenge Series <sup>††</sup>	<i>A series of cognitive-behavioral interactive journals, for a targeted audience of high-risk incarcerated individuals. The comprehensive curriculum explores how to live a life free of criminal activity, violence, drug use, and emphasizes the importance of building a healthy support community</i>			X
College Correspondence	<i>Opportunity to pursue college coursework through individual and family support</i>	X	X	X
Courage to Change <sup>†</sup>	<i>A series of cognitive-behavioral interactive journals in which participants can address their individual problem area on a criminogenic risk and needs assessment</i>	X	X	X
Dialectical Behavioral Therapy*	<i>Cognitive behavioral mindfulness-based coping skills; 10 weeks</i>	X	X	X
Hustle 2.0	<i>A trauma informed mail based correspondence program which explores entrepreneurship, healthy relationships, leadership, criminal thinking, employment, purposeful living, reentry, anger management, character development, victim awareness, persevering, and becoming the solution.</i>	X	X	X
Interpersonal Problem-Solving Skills*	<i>Clinical programming to assist inmates in addressing problems; 8 weeks</i>			X
Longer-Term Restrictive Housing Mental Health Group*	<i>Individual, correspondence-based material focused on learning cognitive-behavioral skills and acting in a manner consistent with personal values</i>			X

METEOR*	<i>Introduction to the stages of change and how a person can move forward if s/he chooses</i>		X	
Moral Reconciliation Therapy	<i>A cognitive behavioral treatment system that leads to enhanced moral reasoning, better decision-making, and more appropriate behavior</i>			X <sup>‡</sup>
Mental Health Association Intentional Peer Support	<i>A resource focused on pro-social relationships amongst peers. IPS participants learn to have a connection to one another in a manner that is both supportive and transformative</i>	X	X	X
My Recovery Song Interactive Journal	<i>Exploring ideas about recovery through music. Connect with music that encourages efforts to move away from substance use. Express thoughts, feelings, and ideas</i>	X	X	X
Reading Selections and Thoughtful Responses	<i>Multiple reading selections which explore topics of self-betterment and pro-social growth; accompanied by a series of thought-provoking questions aimed to assist in reading comprehension, retention, and practical application of learned skill</i>	X	X	X
Remodeling My House	<i>Journaling that offers a creative ways to examine your personal story. Uses the exercises to express yourself, identify challenges and opportunities and consider change.</i>	X	X	X
START Now*	<i>Mental health programming re-enforcing personal responsibility for behavior; teaching the connections between thoughts, feelings, and behavior; identifying strengths to build on</i>	X		
Succeeding in Less Restrictive Housing*	<i>Discusses motivations for personal change, cognitive distortions, risk factors for institutional violence, and relapse prevention planning. This course is comprised of 8 sessions provided through correspondence</i>			X
Victim Empathy	<i>Discusses harm caused to victims and themselves; provides important life skills on how to be emotionally</i>		X	X

	<i>proficient resulting in better decisions and reduced conflict</i>			
Violence Reduction Program*	<i>Intensive treatment option for inmates at high risk for violent re-offense, those with strong antisocial beliefs or lifestyles, and those with evidence of psychopathy</i>	X	X	X

\* Programs with this indicator require clinical recommendation

‡ Programs with this indicator require MDRT recommendation

Appendix 3: Other Applicable Housing Programs and Services by Unit Type- FY2023

<b>Program Name</b>	<b>Description</b>	<b>LMU</b>	<b>High Security General Population</b>	<b>Health Services Units</b>
Adult Secondary Education	<i>Helps students prepare for taking the high school equivalency test</i>	X	X	X
AA (Alcoholics Anonymous)	<i>Encourages members to read, and listen at meetings and use as an opportunity to face the truth and become accountable for their addiction to alcohol.</i>			X
Anger Management High Risk High Need*	<i>Provides instruction and practice on basic anger control strategies in a group facilitated by clinicians</i>		X	X
7 Habits on the Inside	<i>An evidence based, cognitive behavioral program focused on integrity and proactivity to help participants achieve their highest potential through development of personal character and planning skills</i>		X	X
College Correspondence	<i>Opportunity to pursue college coursework through individual and family support.</i>	X	X	X
Courage to Change†	<i>A series of cognitive-behavioral interactive journals in which participants can address their individual problem area on a criminogenic risk and needs assessment</i>		X	X
Hustle 2.0	<i>A trauma informed mail based correspondence program which explores entrepreneurship, healthy relationships, leadership, criminal thinking, employment, purposeful living, reentry, anger</i>	X	X	X

	<i>management, character development, victim awareness, persevering, and becoming the solution.</i>			
Moral Reconciliation Therapy	<i>A cognitive behavioral treatment system that leads to enhanced moral reasoning, better decision-making, and more appropriate behavior</i>		X	X
Mental Health Association Intentional Peer Support	<i>A resource focused on pro-social relationships amongst peers. IPS participants learn to have a connection to one another in a manner that is both supportive and transformative</i>	X	X	X
My Recovery Song Interactive Journal	<i>Exploring ideas about recovery through music. Connect with music that encourages efforts to move away from substance use. Express thoughts, feelings, and ideas</i>	X	X	X
Reading Selections and Thoughtful Responses	<i>Multiple reading selections which explore topics of self-betterment and pro-social growth; accompanied by a series of thought-provoking questions aimed to assist in reading comprehension, retention, and practical application of learned skill</i>	X	X	X
Remodeling My House	<i>Journaling that offers a creative ways to examine your personal story. Uses the exercises to express yourself, identify challenges and opportunities and consider change.</i>		X	X
Thinking for a Change	<i>An evidence based, cognitive-behavioral curriculum developed to increase the participant's awareness of self and</i>		X	X

	<i>others through examination of attitudes, beliefs and thinking patterns. New skills are learned to assist with success</i>			
Violence Reduction Program*	<i>Intensive treatment option for inmates at high risk for violent re-offense, those with strong antisocial beliefs or lifestyles, and those with evidence of psychopathy</i>	X	X	X

Appendix 4: Individuals Released from Restrictive Housing into the Community, FY2023  
(Blue font indicates release to detainer)

Release Date	Placement Reason	Length of Stay in Days	Status	Released From	Release Type	Released to Detainer
8/5/2023	Serious act of violent behavior	52	LTRH	NSP	PRS	No
10/16/2022	Threats or actions of violence	6	IS	NSP	DISC	No
11/7/2022	Presence in GP will create a significant risk of physical harm	21	IS	OCC	PROL	Yes
1/11/2023	Presence in GP will create a significant risk of physical harm	8	IS	TSC	PRS	Yes
2/5/2023	Presence in GP will create a significant risk of physical harm	1	IS	NSP	DISC	No
6/24/2023	Presence in GP will create a significant risk of physical harm	4	IS	NSP	DISC	No