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Nebraska Department of Correctional Services Classification and Crowding Project Technical Report

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NEBRASKA CENTER FOR JUSTICE RESEARCH

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EXECUTIVE SUMMARY

In response to recent reports and noted issues of prison crowding, NDCS (Nebraska Department of Correctional Services) contracted with NCJR (Nebraska Center for Justice Research) to investigate the impacts of crowding. Going beyond the CSG, CJI, and Master Plan reports (Council of State Governments, 2015; Criminal Justice Institute, 2022; Dewberry, 2023; JFA, 2020), NDCS requested NCJR identify which facilities and populations are impacted greatest via crowding. Further, findings provide areas of recommended changes needed to ease growth and help maintain safety and functionality of NDCS institutions. As part of Phase I, we completed a process evaluation, which included a review of documentation, touring facilities, and speaking with both faculty and leadership team members. This evaluation provided an understanding of system operations and areas to target with further investigation.

Following the process evaluation, NDCS and NCJR collaborated to create three areas of classification and system flow that would be the subject of further analyses in Phase II. Specifically, NDCS tasked NCJR to examine:

1. Prison growth and its impact on classification and promotion of incarcerated individuals,
2. Safety and prison management concerns regarding mixed custody facilities, and
3. The impact of individuals with short sentences on crowding and system flow.

Regarding prison growth and classification, NJCR examined prison population changes, exploring if crowding has disproportionally impacted specific populations and facilities. With the recent Master Plan (Dewberry, 2023) suggesting the need for a new 1,300 bed facility by 2030, we examined the causes of and changes in the population resulting from prison population growth and crowding. In particular, we considered population changes in risk of violent and serious misconduct, where greater levels of risk would suggest the need for high security facility resources, and decreased risk would indicate lower intensity needs.

Next, we examined current uses of prison facilities. As the Nebraska Legislature has set aside funds for the construction of a facility to replace the Nebraska State Penitentiary (NSP), we sought to examine how current findings regarding mixed custody units should guide the development of the replacement facility design. Specifically, because of crowding and facility restrictions, over the last two decades, NDCS has merged security levels of several housing units by combining maximum and medium, as well as medium and minimum-security levels. While NDCS has indicated that they are working towards eliminating the use of mix custody in future facilities, we were directed to examine the current consequences of mixed custody units and their impact on violent infractions and other forms of infraction behavior.

Finally, through focus groups and interviews with facility and leadership team members, a population of individuals serving sentences of less than a year were identified as a potential source of crowding and creating a bottleneck to overall system flow. Termed ‘Short Timers,’ we examined this population’s impact on the system and the difficulties they pose in terms of housing and intervention efforts. Ultimately, we conclude by describing the impact of their removal, recommending their reduction in NDCS facilities as a method to reduce crowding.

Findings

Several notable study findings were identified. We provide a breakdown of key findings, by deliverable.

The Recent 'Spike'

While prior consultant reports identified a gradual, annual increase in prison crowding, NCJR examined a monthly trend of admissions and releases, seeking to highlight underlying causes of prison population growth. Findings revealed crowding issues heightened following an 18-month reduction in parole releases.

1. Crowding at NDCS facilities was *a consistent issue* prior to the most recently commissioned Master Plan report, where it was found that the magnitude of NDCS crowding was roughly 150% over design capacity of current facilities.
2. In September 2018, a 7% 'Spike' in Average Daily Population (ADP) was observed, where a 200-bed expansion in the Community Corrections Center in Lincoln (CCL) provided a partial crowding relief.
3. However, the facility expansions *provide only temporary crowding reductions*, as parole board member turnover and the growing terms of incarceration, caused an 18-month reduction in parole releases and, in turn, an observed 'spike' in ADP.
4. As a result of the spike, it is suggested that prison expansions alone cannot reduce prison capacity issues. Instead, strategies targeting reductions in individuals' 'terms of incarceration' represent more sustainable methods of reducing prison crowding.
5. Following the COVID-19 outbreak, periods of ADP reductions have been observed and are shown to be possible. Therefore, NCJR recommends legislative action to strategically reduce average sentence lengths, provide more consistent prison release practices, and additional resources to inhibit returns via revocations.

Changing Populations

Noting the recent expansions and ADP growth, we sought to understand the impact of this growth and examine population changes over time. It is through this exploration that we found strategic solutions for future structural and policy changes needed to adapt to the changing prison population landscape. Using the NDCS classification tool as a *barometer of risk* for serious and violent institutional misconduct, we identified several key findings.

6. The NDCS classification tool is a strong predictor of violent infractions and a good predictor of both serious and non-serious infraction behavior[1].
7. Yet, misalignment with classification tool recommendations were common, indicating that greater than 40% of the NDCS population were housed outside of recommended security designations.

[1] We also note that adjustments to the classification tool are needed to further improve its functionality.

8. While there are many rationales for misalignment[2], *the vast majority resulted in overclassification*, where individuals were retained at a higher custody level than indicated by their risk assessment.
9. With growth in overclassifications observed over time, findings indicate restrictions in individuals' ability to transfer and receive interventions provided at lower custody facilities (i.e., minimum & community) potentially delayed releases.
10. Further, the growth in *overclassification is a forced consequence of crowding,* where the lack of available beds at all custody levels prevents promotion and system flow.

With the understanding that a replacement facility for NSP may be designed to improve safety and prison management, NCJR was tasked to examine potential issues impacting the use of mixed custody facilities. Termed *'risk contamination'*, prior research has established the importance of separating housing units by misconduct risk level (Damm & Gorinas, 2020). Analyses compared the rate of infractions for those housed in mixed versus true custody units.

11. Our findings revealed that *mixed custody units possess increased rates of violent and serious infractions*.
12. Results confirm an NDCS directive to reduce the use of mixed custody units via the planned replacement facility to be constructed.

Finally, NCJR examined an incarcerated population that staff perceived to have the greatest impact on system flow and timely transfer and release of incarcerated individuals. Termed '*Short Timers*', this population is made of those who are incarcerated for less than a year. Staff suggested that this population impacts the system in a manner that makes it difficult to provide programming and work release to the larger NDCS population. Through an evaluation of Short Timers, findings revealed their specific impact on recent population growth.

13. Observing an eight-year growth, Short Timers now represent over 50% of new NDCS admissions.
14. Male short timers serve a substantial portion of their time at their reception facility, sitting idle, and have little opportunity for program participation and work release.
15. Findings indicate that removing Short Timers from NDCS facilities, and into alternative housing locations would provide a substantial *reduction to prison crowding, may prevent the need to build an additional prison facility,* and has the potential benefit both Short Timers and Non-Short Timers as a result.

Conclusions

Over the last 40 years, prison expansion and crowding has continued nationally. Given the unsustainable growth in ADP and exorbitant expense of facility construction, states have sought methods to reduce, rather than expand, prison capacity (Blumstein, 2011; Cullen et al., 2017). Faced with the need to replace one facility with a crumbling infrastructure, as well as a Master

[2] As noted in the report, individuals may appear misaligned but are placed in housing units that are designed to provide programming or protective services that increase both the safety and rehabilitative efforts of the NDCS system.

Plan recommendation to add a second facility to address recent growth, NDCS contracted with NCJR to identify root causes and potential solutions for current prison population demands. The current report provides a description and findings completed as part of project Phases I and II.

While we find consistencies with prior reports (Council of State Governments, 2015; Criminal Justice Institute, 2022; Dewberry, 2023; JFA, 2020), current findings provide a more detailed and targeted understanding of key drivers of prison crowding in Nebraska. Specifically, lessons learned from the nation's 'mass incarceration' and 'prison boom' eras have indicated that *expanding prison facility space is a temporary fix for prison crowding*. As demonstrated in the ADP 'spike,' facility capacity expansions produce short-lived crowding reductions, yet prison populations continue to expand and exceed new capacity space.

As a result of decades of research on prison crowding, researchers often advocate for alternatives to prison expansions (Cullen et al., 2017; Liedka et al., 2006). *When new prisons are built, they should be intended to replace existing facilities*, exchanging crumbling infrastructure for modern designs that improve facility safety and management. New facilities should ensure the separation of risk levels, allowing individuals to be housed in a location that will provide a safe and rehabilitative environment for all. Creating optimal spaces for intervention and programming is key to NDCS's mission of returning individuals to their communities with the best chances of success.

Yet, when populations grow, there is a natural tendency to view current prison capacities as inadequate, necessitating the need for additional bed space. As prior research and national trends indicate, alternatives to prison incarceration are a more strategic solution (Blumstein, 2011). Our findings denote common themes, where populations have reduced their infraction risk over time, which suggests the need for lower security options. Further, as the rate of Short Timer admissions has increased, there is *a need to secure alternate facilities and/or policy and legislative solutions for alternatives to prison incarceration*. Using data to drive solutions, both states and the federal government have identified methods of reducing prison populations that maintain public safety (Clear & Schrantz, 2011; Baber et. al, 2021). We suggest similar solutions be sought by the Nebraska Legislature in response to current NDCS crowding issues.

Recommendations

Based on the findings provided in this report, we make several recommendations. *First,* with both short and long-term updates to the classification assessment, NDCS has the potential to *more accurately identify, and separate individuals based on risk.* In this way, the assessment has the potential to help create a system of transfers and promotion that will improve the provision of programming, work release, and reentry. Further, assessment improvements will provide NDCS the ability to categorize those with minimal risk to the community, *identifying a population of individuals best served via alternatives to prison incarceration* (i.e., home confinement & electronic home monitoring) and/or early release (i.e., expanded 'good time'). Borrowing from multiple, effective strategies observed in other jurisdictions, these alternatives to incarceration can reduce crowding and prison population growth. With additional research and analysis, the extent of the anticipated reductions may be forecasted, and cost efficiencies analyzed for legislative consideration.

Second, Short Timers and similar populations (i.e., parole violators) pose a consistent strain on the NDCS system and are not optimally served in a prison environment. Further, this population inhibits the designed flow of transfers and promotion, preventing the effective transitions of those with longer terms and greater needs for services. Therefore, we recommend developing *strategic solutions to serve Short Timers outside NDCS facilities in alternative housing*. Many states use local jails for those that are lower risk, allowing individuals to serve a portion of their term of incarceration near their home, with the potential for work release and programming alternatives that take advantage of community-based resources. Our estimates indicate that removing this population will allow NDCS to near the 5,000 ADP suggested functional capacity indicated by the Council of State Governments in 2015. Further, a removal of this size has the potential to stave off the need for a new 1,300 bed facility projected in the Master Plan (Dewberry, 2023). While these alternatives must be strategically applied so as not to substantially increase public safety risks, and will require initial state investment, over time alternatives to prison incarceration are likely to improve public safety and save taxpayer monies.

Third, changes in Nebraska statutes, NDCS, and parole have resulted in notable alterations in the system of incarceration, creating unforeseen effects on crowding and prison safety. In the last eight years, the Nebraska Legislature, Governor, and NDCS have commissioned reports from five separate external agencies. Each agency was tasked to provide 'snapshot' documenting issues of crowding and their sources. Yet, these reports have been in response to immediate crises, with little consideration for sustainable tracking of population trends that may be used to proactively 'head off' the next crisis. As demonstrated via the recent ADP 'spike', small changes to prison admissions, sentence lengths, and the pace of parole releases can have drastic and sustained impact on prison crowding specifically, and correctional resources generally. Therefore, we recommend the *Nebraska Legislature review statutes created that extended sentence durations*, which study findings both here and in other states indicate as a key source of prison crowding. Providing methods of early release for non-violent individuals and those completing recommended programming has been shown to reduce crowding and costs of incarceration elsewhere (Labreque et al., 2023)

Finally, we recommend that planning and resources be provided to *create a monitoring and tracking system with the ability to forecast correctional trends and provide important guidance to governmental bodies*. Using data resources afforded to the Nebraska Crime Commission, combined with an effective workgroup of researchers and criminal justice agencies, correctional population trends can be monitored to inform recommendations for policy and legislative adjustments to reduce ADP when warranted. This system has the potential to *flag prison growth* and other concerning trends, preventing future crises, as well as communicate proposed effects of recently implemented policies and statutes to ensure that system improvements create the desired intent.

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INTRODUCTION

In August of 2021, with funding provided from Legislative Bill 380 (LB380) the Nebraska Department of Correctional Services (NDCS) contracted with the Nebraska Center for Justice Research (NCJR) to evaluate how individuals are classified and to assess flow through the prison system. Overall, the project sought to examine inefficiencies within the NDCS system as they pertain to classification and crowding and identify areas of improvement. The project scope of work outlined three phases. In Phase I, a process evaluation was completed to provide a comprehensive review of the NDCS prison system overall, as well as issues and impacts of crowding in individual facilities. Further, additional system interactions were reviewed. As a result of the process evaluation, in Phase II NDCS and NCJR selected three key areas for further evaluation 1) classification alignment, 2) the use of mixed-custody facilities, and 3) the effects of short timers on the system flow and release. The current report describes the results of Phase I and Phase II of the project.

Background

Issues of crowding in NDCS facilities are well-known (Bischof, 2021, October 20; Lundak, 2021). An analysis of prior examinations of the NDCS prison crowding found that system intakes have remained consistent during periods of crowding which suggests two potential sources of crowding – limited bed space and individual flow and releases. Regarding bed space, it was suggested that the NDCS system is underbuilt, reflecting a need to expand facility space to accommodate the current population (Ozaki, 2022, January 27). However, as national trends have demonstrated the positive effects of 'decarceration', others have recommended stakeholders should instead focus efforts on reducing the overall population to fit current system space. For example, in 2015 the Council of State Governments (CSG) undertook a Justice Reinvestment Initiative (JRI) initiative in Nebraska in an effort to reform policies and reduce prison crowding. At the time, the NDCS individual population was identified to be at 159% capacity, with an average population of just over 5,000 individuals (Council of State Governments, 2015). In addition, they found that, despite recent declines in crime/arrests in Nebraska, prison admissions continued to outpaced releases. CSG conclusions provided several recommendations for sentencing and policy modifications, including:

A) update property offense penalties to reflect inflation,

B) use jail, not prison, for misdemeanors,

C) use probation for those convicted of nonviolent/low-level offenses,

D) prioritize probation resources for felony probationers that are higher risk,

E) use short jail stays for community supervision technical violations, and

F) expand Specialized Substance Abuse Supervision (SSAS) for non-drug offenses.

They further suggested that if immediate and impactful system changes were not adopted, prison crowding would increase to an average population of over 5,500 in 2020. With this knowledge,

several system modifications where included in Legislative Bill 605 (LB605) to implement several CSG's recommendations.

Notably, LB605 expanded the use of probation in lieu of incarceration (CSG, 2015). This bill was pitched as a method to reduce prison populations by 1,000 people and ensure that an additional 300 individuals were supervised upon reentry. While multiple policy changes were included in LB605, critical to JRI, the creation of post-release supervision (PRS) was essential for addressing prison crowding. Specifically, PRS is a type of determinant sentence, often termed a 'split sentence' in other states, where a judge imposes both a term of incarceration and community supervision. Under PRS, the community portion of a person's term is supervised by a county's probation office. If a PRS failure occurs, the individual is returned to NDCS custody. While ambitious, the use of PRS sought to reduce the NDCS population by 1,300 persons.

In 2018, two years following the enactment of LB605, Nebraska Probation completed an analysis of the effects of PRS (Minardi, 2018). However, when following the number of admissions and releasees in 2017 instead of the expected 1,300 population reduction they found a reduction of only 29 individuals. Minardi (2018) suggested that the lack of prison population reduction may have been the result of statute changes that elevated penalties for drug and assaults to Class III felonies. These changes resulted in increased terms of incarceration for these felonies, wiping out most of the anticipated positive gains of PRS. While the report only reviewed the first year of PRS implementation, multiple changes were observed in sentence structures that may have 'cancelled out' the effects of LB605 and JRI. Specifically, sanctioning changes were outlined in 2015 via LB294[3], in 2016 via LB289[4], in 2018 via LB773[5] , LB686[6] ,and LB913[7]LB630[8]LB881[9] increasing penalties across a variety of offense types. Without legislative or correctional policy countermeasures to reduce prison sentences, these statutes negate the potential reduction of JRI initiatives in Nebraska, ultimately resulting in more incarcerations, longer sentences, population growth, and increased rates of crowding. Further, the Nebraska Criminal Justice Reinvestment Workgroup (2022) identified that the Nebraska counties with the highest admission rates reflect the areas that lack substance abuse and mental health treatment services, which likely exacerbates re-incarceration. The lack of community resources became readily apparent with the passage of LB605 in 2016, which increased penalties for drug crimes, and corresponds with an increase in arrests.

[3] LB294 increased penalties for pandering (Class IV went to Class III and Class III went to Class II) and keeping a house of prostitution (Class I misdemeanor went to a Class IV felony and Class III went to Class II).
[4] LB289 increased penalties for pandering, human trafficking for labor or sexual exploitation. Penalties for pandering or trafficking of an adult went from a Class III to a Class II felony. The penalty for sex trafficking offenses for minors when from a Class II felony to a Class 1B felony
[5] LB773 created offense to threaten someone with a text or email message and made it a Class III misdemeanor.
[6] LB 686 removed the option of PRS for Class IV felonies.
[7] LB913 changed the penalty for a person who commits the crime of knowingly and intentionally striking a public safety officer with a bodily fluid from a Class I misdemeanor to a Class IIIA felony if it strikes the person's eyes, mouth or skin. It also extended the offense to health care professionals.
[8] LB630 created the offense of distributing a private image of another person and made it a Class I misdemeanor for the first offense and a Class IV felony for other offenses.
[9] LB881 Created the new offense of sexual abuse by a school employee. It made sexual penetration of a student a Class IIA felony and sexual contact a Class IIIA felony. Grooming would result in a Class IV felony for the penalty.

Recent Evaluations

Nebraska's partnership with CSG on the JRI initiative in 2015 was part of a national movement to reduce prison crowding and stem the 50-year tide of growing correctional populations. During this time, state governments incorporated similar initiatives to reduce incarceration. For example, many states adopted statutes and alternatives to incarceration, reducing prison sentences for non-violent offenders (La Vigne et al., 2014). Within the federal system, bipartisan efforts provided early release time credits via the First Step Act (FSA) to return non-violent offenders to the community (Cohen et al., 2019). Moreover, the COVID-19 pandemic greatly impacted the health and safety of incarcerated individuals and correctional staff, leading many states to adopt policies to reduce prison confinement for vulnerable and non-violent populations (Prison Policy Initiative, 2021).

Despite the recent push to reduce prison populations nationally, current evaluations have suggested that the Nebraska system has not followed the same reduction trend. As a result of persistent crowding in NDCS facilities, the Crime and Justice Institute (CJI) was contracted in 2020 to provide a JRI update. As a result of this second phase of justice reinvestment research, CJI reported that the NDCS population had grown to over 5,600 persons, exceeding CSG's original (5,500) estimates for 2020 (CJI, 2022). Notably, the CJI report focused on the *inputs versus outputs* of the NDCS system, identifying several notable prison population growth trends. Specifically, CJI researchers found that, despite decreasing prison admission:

1) Minimum sentence lengths were up 25%,
2) Time served had increased by 38% overall and time served for parole revocations was up 60%,
3) Over 20% of NDCS admissions were for non-criminal events, which are primarily parole and Post-Release Supervision (PRS) revocations.

However, the impact of crowding within the NDCS system was not universal. Specifically,

A) Four facilities commonly operated near, or under, operational capacity[10], including:
    a. Community Corrections Center – Lincoln (CCCL),
    b. Tecumseth State Correctional Institution (TSCI),
    c. Nebraska Correction Center for Women (NCCW), and
    d. Nebraska Correctional Youth Facility (NCYF).

[10] Readers should note that operational capacity refers to the number of individuals that can be held based on staffing and services and can be assessed in several ways. First, there is Statutory Operational Capacity, which is 125% of Design capacity. Then there is NDCS's assessment of Operational Capacity, created using Dewberry's Operational Stress Index (see https://corrections.nebraska.gov/sites/default/files/files/46/2014_ndcs_master_plan_final_report_reduced_2.pdf). NDCS describes Operational Capacity as the preferred "fill-to" rate, representing the number of individuals in a living unit and/or a facility that can be held and continue to operate efficiently/effectively. In contrast, Design Capacity refers to the number of individuals that can be held based on a facility's architect or planner. When assessing overcrowding, Design Capacity overcrowding rates appear larger than Operational Capacity.

Yet, two of these facilities house females (CCCL & NCYF) and one is a youth facility (NCYF), where crowding is not a common concern.

B) Five facilities operated at 123% to 155% over operational capacity, including:
   a. Nebraska State Penitentiary (NSP),
   b. Lincoln Correctional Center (LCC),
   c. Work Ethic Camp (WEC),
   d. Community Corrections Center – Omaha (CCCO), and
   e. Omaha Correctional Center (OCC).

Finally, the largest source of crowding was identified at the

C) Diagnostic and Evaluation Center (DEC), which was estimated at *300% design capacity*[11].

It should be noted that at the time of writing this report (March 2022), LCC and DEC were operating as separate facilities. However, a combination and expansion of the two facilities was completed in late 2022 to form the Residential Treatment Center (RTC). To provide a consistent description of the two facilities, we refer to DEC as RTC1 and LCC as RTC2.

In January of 2023, Dewberry was contracted to complete an updated Master Plan, which analyzes NDCS' needs regarding facility updates, future populations, and prioritization of capital projects (Dewberry, 2023). The resulting report provided an examination of facility space, knitting together findings from the CSG, CJI, and a prior NDCS consultant report on prison crowding (JFA, 2020). In response to the outlined funds for new prison construction, Dewberry identified the need to replace the Nebraska State Penitentiary (NSP) due to deteriorating structural conditions. Further, and similar to CSG, they recommended the potential need to add a second new facility, housing an additional 1,300 individuals estimated to be incarcerated within the NDC system by 2023.

Current Project Scope

While the CJI and Master Plan findings provide noteworthy updates to the original 2015 CSG justice reinvestment initiative report, a deeper understanding of the reasons for crowding is needed. Specifically, in this report we sought to provide strategic legislative and policy solutions for reducing prison crowding by developing an understanding of how individuals are classified, promoted, and flow through NDCS facilities. Our objective was to identify potential improvements that may allow individuals to be promoted to lower levels of custody, returned to the community more quickly, while addressing revocations and other returns to prison custody that impact crowding. Our primary goal was to promote public safety, while ensuring the most effective and cost-effective use of existing NDCS facilities and, to the extent possible, reduce the need for multiple, new prison facilities. To investigate incarcerated individuals' flow through the system, the current report provides details of two areas of inquiry. First, in Phase I, we sought to

[11] It should be noted that at the time of writing this (March 2022), LCC and DEC were operating as separate facilities. However, a scheduled combination and expansion of the two facilities was scheduled for July of 2022.

understand the current state of the NDCS system through a process evaluation consisting of a document review of current and past policies and procedures, interviews and focus groups with staff, and facility tours. As will be described, this process evaluation resulted in a description of issues, generally falling into three key areas, requiring further examination. In Phase II, those three areas were examined via NDCS data and statistical methods assessing how to improve individuals' promotion and flow through the system, while maintaining safety both inside and outside of the facility. Specifically, we examined the following areas of system flow: classification alignment, the use of mixed custody housing, and the impact of short-term incarcerations. The following report provides a description of Phase I and II findings. Recommendations are then provided that outline the areas for further examination.

PHASE 1 – PROCESS EVALUATION

As previously noted, the first examination of potential crowding in the NDCS system was a process evaluation that took place during the project's first year (2022). The process evaluation sought to understand the extent of the crowding issues, incorporating staff's perceptions regarding current system concerns and target areas for improvement. This section of the report is divided into two areas of research. First, we describe the policy review, which is followed by a description of the interviews and focus groups. For both areas, we first detail the data gathering processes. Next, we provide findings from the process evaluation, organized by theme. Finally, we provide the outcome of our collaboration with the NDCS administration, identifying Phase II project deliverables.

Process and Policy Review

The process evaluation utilized a document review of policies and procedures. Based on the contract's proposed scope of work, we identified areas of the classification process that required description and documentation. NDCS provided documentation of policies and procedures relevant to our proposed line of inquiry. To provide readers with an understanding of the classification process, this section details how an incarcerated individual will process through the system from intake through release. Key policies (and policy changes) are provided to describe the distinct pathways that an individual navigates prior to their return to the community.

Intake

Upon conviction and sentencing, individuals sanctioned to serve a prison term are typically transferred from a county jail or detention facility to one of two NDCS receiving centers. Males are transferred to RTC1 in Lincoln and females are committed to NCW in York[12]. Ideally, individuals are received at intake with requisite paperwork required for assessment and classification, which includes judgment and sentencing, a presentencing investigation (PSI) report, and medical records[13].

Within thirty days of admission, individual individuals are assessed for relevant risks and needs, relevant to classification and programming. Assessments include the state approved risk and needs assessment (the Static Risk and Offender Need Guide Revised [STRONG-R]), the NDCS classification tool (the Institutional Risk Assessment [IRA]), an employment placement survey, and clinical assessments (e.g., medical health, mental health, violence, sex offender, and substance abuse treatment assessments). Assessment and clinical staff review individuals' records and conduct in-person interviews, to collect relevant data needed for classification and case plan development. The classification assessment is used to recommend facility placement, while the case plan guides programing and service receipt.

<u>Highlighted Intake Policies and Procedures</u>

[12] We note that during this evaluation a new, Reception and Treatment Center (RTC) was opened that includes the DEC facility as well as new additions to intake capacity.
[13] We note that NDCS has identified the more than 50% of individuals arrive without a PSI, which greatly restricts their assessment and processing.

Notably, due to COVID-19 pandemic restrictions, individuals were quarantined for the first 14 days of incarceration, delaying the outlined timing of intake assessments. Delays at intake are notable, as uncompleted classification and case planning processes may further delay transfer to an individual's initial placement. Given the crowding rates reported at reception (see; Nebraska Criminal Justice Reinvestment Working Group, 2022), this is a potential complication for the process and flow of male individuals.

Further, Nebraska statue[14] dictates that, regardless of design or operational capacity, NDCS must take supervising responsibility of all individuals convicted and sentenced to prison. Notably, it is not commonplace in Nebraska to allow a portion of an individual's term of incarceration to be completed in county jail. Thus, individuals must be transferred to NDCS immediately following their conviction, unless other circumstances occur that delay transfer (i.e., transfer from a distant county).

As a result of intake facility requirements, the male reception facility is consistently over capacity, requiring temporary bed space to be used. For example, overflow individuals without a regular bed are given temporary cots, which are frequently utilized at the male reception facility. However, cots are not regularly used in other facilities as NDCS policy dictates that individuals are not transferred until the receiving facility has a non-temporary bed.

Classification & Progression

The classification process follows the collection of intake data. To guide classification, the IRA assessment tool is completed at intake. This tool, implemented in 2017, scores individuals on 26 risk items and is used to assess individual's likelihood for infraction behavior following an initial assessment. Notably, the IRA is not designed to specify a particular facility, or bed, in which an individual is placed, recommending only the external classification level – maximum, medium, minimum, community security. At initial classification, a case manager makes recommendations for facility placement after which the Warden at said facility approves the move. For reclassification, recommendations for facility transfer are provided to the Director's Review Committee (DRC), which approves transfers between facilities, assigning individuals to another facility and/or a specific housing unit, when beds become available. Along with mandatory and discretionary overrides, a final determination of the individual's security level is then recommended by classification staff and approved by the committee. Once an individual's security level has been determined, staff identify the specific facility an offender will be housed in, given the approved security level. This facility determination is based on multiple factors including, but not limited to, available bed space, location, programming availability, medical needs, mental health needs, mission housing, secure threat group (STG) designation, and individual separatee or staff/facility prohibition orders.

Following initial placement, rehabilitative programming and available services are provided. An individual's progress is assessed at reclassification. The reclassification tool consists of 34 items and is completed every 6 to 12 months, depending on an individual's sentence length. However, if a significant event occurs (i.e., program completion or serious/violent infraction) the reclassification team may rescore an individual outside of routine

14NE Code § 28-105 (2017). 28-105.

evaluation timing. Like the initial classification, consideration for promotion or demotion of housing security level is recommended by facility staff and approved by the classification review team. Following approval, individuals eligible for promotion are placed on a prioritized waiting list for transfer upon bed availability in their new facility location.

Highlighted Classification Policies and Procedures

Notably, an individual may be classified at intake or following reclassification for placement in an NDCS facility. However, an approved classification level *does not* mean an individual is transferred immediately. Without an available space in a facility at the approved security level, individuals wait in their current facility until a bed is identified. Staff indicated that it is not uncommon for an individual with special housing needs (e.g., protective custody) or those with limited time to release (e.g., less than a year) to be approved for transfer, yet a bed does not become available in a facility with the approved security level prior to their next reclassification assessment/determination. This policy results in one area of restricted flow though facility ranks. It was also noted by administrative staff that the COVID-19 pandemic slowed operations in the years prior, where individual movement was halted on multiple occasions across the entire system. The DEC population has expanded because of these pandemic-related backlogs. Further, there were times during the pandemic that NDCS paused intakes, requiring individual to be held until the DEC population returned to safe levels, thereby restricting intake flow when circumstances dictated.

Release and Return to NDCS Custody

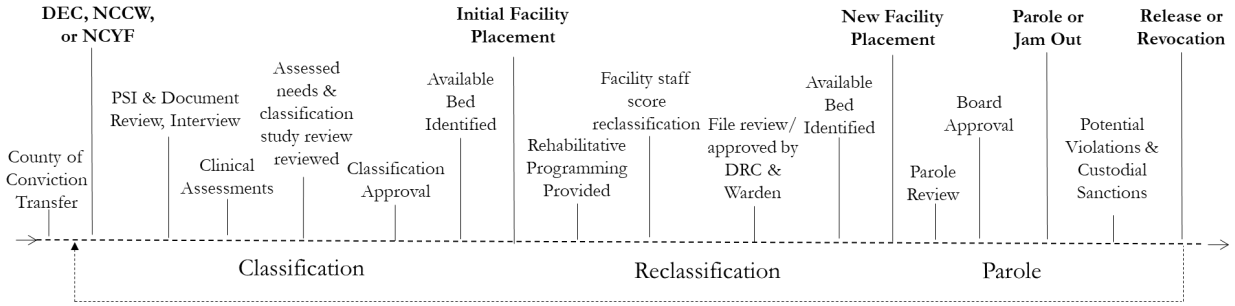
Accounting for time served and 'good time' or early release credits, an individual's estimated release date is determined by NDCS. Parole is anticipated, but not a certainty, for most individuals. Individuals that do not receive parole or are sentenced to post-release supervision (PRS), are released from NDCS custody without supervision (i.e., 'jammed out'). Those eligible and seeking parole release are notified of their file review within six months of their scheduled hearing date. The Parole Board reviews an individual's file and identifies potential considerations, or needs, to be addressed prior to the parole hearing. These considerations may include programming to be completed, determination of post-release residence and/or employment, and repayment plans for restitution and fees. If, upon review prior to the hearing date, the Board determines that parole is unlikely, the individual's file is briefly reviewed but a new hearing date is set, typically within the next six months.

Once a hearing date is set, the individual appears before the Board. Victims, family, and other external individuals may present to the Board regarding the individual's case for release. If a release is not granted, the individual is returned to their current facility and may be promoted/demoted by the classification review team. If parole is granted, a date of release is confirmed, along with the conditions of parole. Many conditions of parole are standard for all releasees (e.g., not to leave the county of release, not to commit any new crimes, meet with parole officer as requested), while others are specific to the individual (e.g., complete programming, not to contact victim, submit to urine analysis). At 180 days prior to their parole release date, NDCS reentry staff will begin to work with the individual, reassessing their STRONG-R risk and needs levels, as well as identifying and confirming residency location,

community programming, and any other services deemed necessary for release. Requisite files and custody transfer paperwork are then provided to parole, and the individual is given the location and time to meet with their parole officer.

While under supervision, the individual completes objectives and conditions of parole, progressing to their eventual parole termination date. Parolees violating conditions of release are provided graduated sanctions at the discretion of their parole officer. More serious violations may result in increased contact frequency and/or custodial sanctions (i.e., short term jail stays). If it is determined that a parolee is not responding to sanctions and is failing the conditions of release, a Board hearing is scheduled, the individual is returned to RTC1 or NCCW, and parole may be revoked. If revocation occurs, the individual is returned to NDCS, where intake procedures are once again completed. An illustration of a typical individual's process and flow through the NDCS system is provided in Figure 1.

Figure 1. General Outline of NDCS Process and System Flow



Highlighted Release and Procedures

NDCS makes directed efforts to release individuals from the least restrictive level of security. This policy was created to ease offenders into the community, providing greater freedoms that are common to their release conditions. This concept is supported by prior studies, indicating the positive effects of graduated conditions of release (Burke, 2021; Taxman et al., 1999). However, there are notable exceptions. Individuals that continue to commit serious and violent acts within a lower security facility are demoted and, as a result, may be released from medium or maximum custody. Further, individuals with specific sentence types or misconduct reports are not permitted within minimum or community facilities[15]. Also, individuals that are not safely housed in minimum or community facilities may be retained in a higher security facility for their own safety within protective custody. Finally, following placement from reception, a male parole violator may not have sufficient time remaining to progress to lower levels of custody prior to release, and remain at reception for the duration of their incarceration.

Both parole and NDCS use recidivism prediction tools. These tools are designed to outline supervision strategies and programming targets to reduce recidivism risk in the community. NDCS makes use of a tool customized for its population, the STRONG-R.

[15] Individuals may not transfer to minimum or community facilities if convicted of first-degree murder or sex offenses. Further recent incidences of trafficking as a leader of and STG, escapes, or possess a highest severity felony detainer.

However, parole utilizes the Ohio Risk Assessment System (ORAS), and probation makes use of the Level of Service – Case Management Inventory (LS/CMI). Due to the use of differing assessment systems, risk and need information is not commonly transferred between NDCS, probation, and parole.

Facilities

NDCS maintains 9 facilities. Eight of these facilities house males and two-house females. Notably, CCL has separate male and female specific housing facilities, preventing interaction. Further, NCW functions as both an intake reception center as well as a long-term secure housing facility for women. A list of each classification level and corresponding institutions is included in Table 1.

While there are four security designations – maximum, medium, minimum, and community custody – there are six classification designations. These designations are as follows – 1A and 1B (max), 2X (medium), 3A(minimum), 3B(minimum), 4A(community), 4B(community). 3B and 4A custody (work/education detail) has the individual work in a public detail assignment with intermittent supervision. We note that 4B custody (work release) status allows the individual to seek and obtain work in the community without staff supervision. There are multiple criteria considered in addition to classification score used to place individuals at a given security level, including behavior, sentence structure, and special circumstances. Ideally, individuals begin their incarceration at the least restrictive security level, then promote to a decreased level of security as they move closer to their Tentative Release Date (TRD). Further, when individuals' behavior allows, NDCS attempts to release individuals to parole or direct reentry from a community facility. These criteria and progression of security levels are outlined in Figure 2.

<u>Highlighted Facility Policies and Procedures</u>

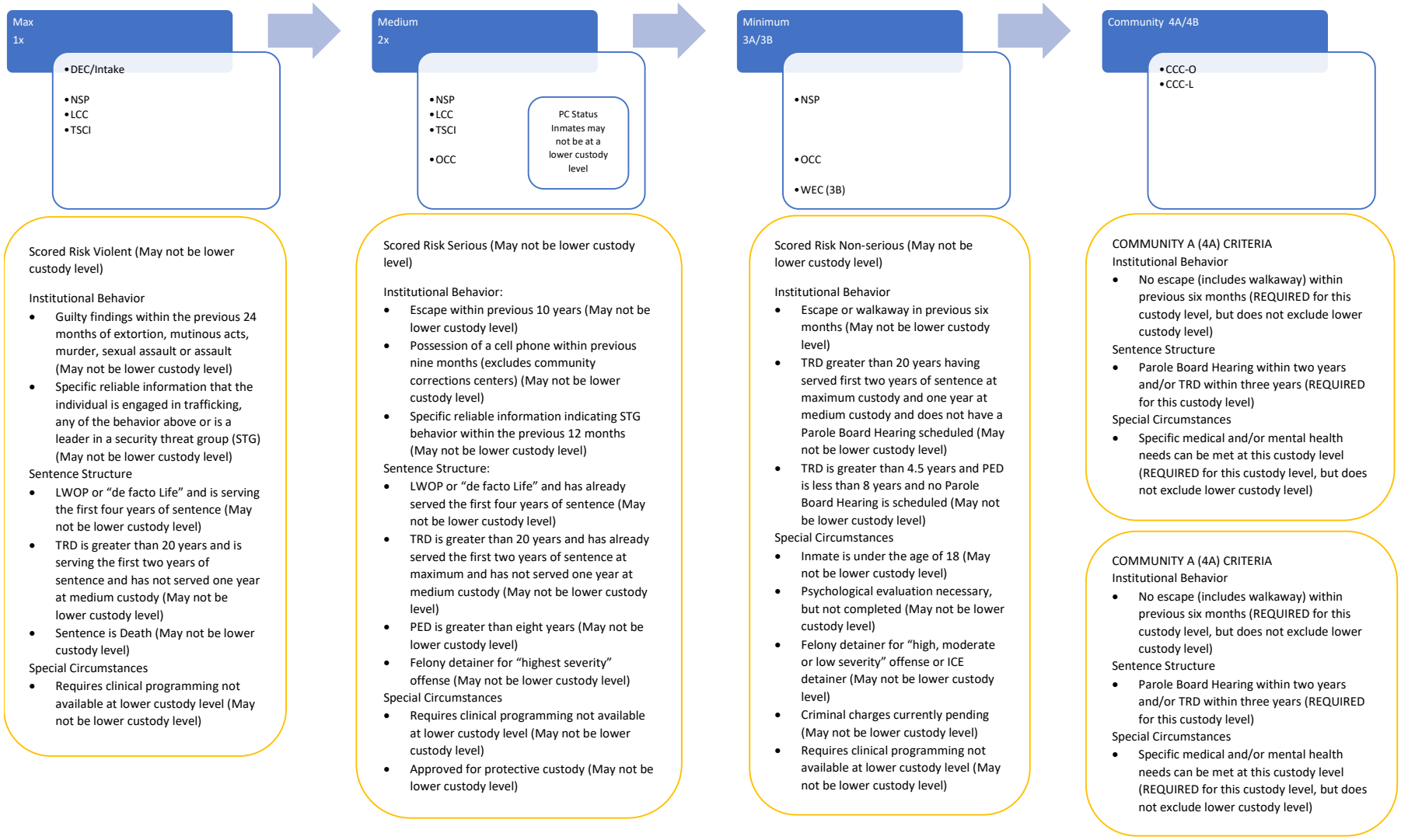
In recent years, the process of promoting individuals to community corrections has changed. Eligibility criteria have been sufficiently broad, using classification/reclassification scoring, upcoming parole board hearing dates, and a three-year TRD. In previous years, this created an extensive waiting list of individuals eligible for promotion. Recently, these waiting lists have been reduced considerably, where a greater focus has been provided to individuals with closer TRDs (e.g., twelve to twenty-four months).

Regarding high security capacity, construction on additional facility space (e.g., combining LCC and DEC) was completed in 2023. This addition combined the two facilities, creating 384 more high security beds and additional space for assessment, medical care, visitations, and other individual services. Beginning operations in 2022, these 384 beds expanded NDCS capacities and require additional staff. Additionally, 32 skilled-nursing and mental health beds were added to the RTC capacity.

Table 1. Nebraska Correctional Facilities

Facility	Custody Levels	Populations Housed	Capacity
Male Facilities			
Diagnostic and Evaluation Center (DEC)/ Reception Treatment Center (RTC1)	1A	New Commits, Parole Violators	Operational Capacity: 200 Design Capacity: 160 Average Daily Population: 418
Community Corrections Center – Lincoln (CCL)	4A and 4B	General Population	Operational Capacity: 575 Design Capacity: 460 Average Daily Population: 609
Community Corrections Center – Omaha (CCO)	4A and 4B	General Population	Operational Capacity: 113 Design Capacity: 90 Average Daily Population: 172
Lincoln Correctional Center (LCC)/ Reception Treatment Center Now (RTC2)	1A, 1B, 2X	General Population, Protective Management, Mission Specific Housing: Residential Mental Health Unit, Limited Movement Unit, Controlled Movement, Chronic Care Mental Health Unit, Acute/Sub acute Mental Health Unit	Operational Capacity: 385 Design Capacity: 308 Average Daily Population: 518
Omaha Correctional Center (OCC)	2X and 3A	Mission Specific Housing: Residential Sex Offender Unit, Residential Substance Abuse Unit	Operational Capacity: 495 Design Capacity: 396 Average Daily Population: 766
Nebraska State Penitentiary (NSP)	1B, 2X, and 3A	Long-Term Restrictive Housing, Mission Specific Housing: Residential Substance Use, Active Seniors Unit, Veterans Unit, Minimum Custody Shop Worker Unit	Operational Capacity: 1,023 Design Capacity: 818 Average Daily Population: 1,288
Nebraska Correctional Youth Facility (NCYF)	1B, 2X, and 3A	Youthful offenders under the age of 25 and others as deemed appropriate	Operational Capacity: 95 Design Capacity: 76 Average Daily Population: 62
Tecumseth State Correctional Institution (TSCI)	1A, 1 B and 2X	General Population, Protective Management (Residential Substance Use for Protective Management) Mission Specific Housing: Long-Term Restrictive Housing, Controlled Movement Unit,	Operational Capacity: 1,200 Design Capacity: 960 Average Daily Population: 1,030
Work Ethic Camp (WEC)	3B	General Population	Operational Capacity: 125 Design Capacity: 100 Average Daily Population:186
Female Facilities			
Nebraska Correctional Center for Women (NCCW)	1B, 2X, 3A	General Population, Protective Management Long-Term Restrictive Housing, Mission Specific Housing: Residential Substance Use, Strategic Treatment and Reintegration (STAR) Unit	Operational Capacity: 344 Design Capacity: 275 Average Daily Population: 269

Figure 2. NDCS Facility Criteria & Security Progression



Staff

There are two main categories of staff outlined in the current report. First, administrative staff are those that occupy the higher levels of NDCS supervisory roles. Administrative staff include the director, deputy directors, facility wardens, deputy wardens, and the higher-ranking assistants and associates that contribute to the administration of larger NDCS goals. Notably, wardens and deputy wardens are assigned to oversee the operations of a specific facility, including custody and case management.

Non-administrative staff are further broken down into three main groups – custody, case management, and clinical. Custody staff are involved in overseeing prison security operations and are assigned military–style titles: corporals, sergeants, and lieutenants. Within facilities, these staff watch over individuals on the grounds, in towers, and observation booths. Day-to-day, custody staff supervise individuals, while also assisting in 'individual count', movements, and events (e.g., visitation, transfers, & restraint).

Case management staff help individuals progress through the NDCS system. Collectively, these staff members are responsible for the assessment of incarcerated individuals which includes behaviors, events, requests, and classification. This process, of data collected for each individual, is then put into a casefile and for case management staff. Like custody staff, there is a hierarchy of positions, including unit administrator, unit managers, case managers, and case workers. Each unit typically has one unit manager, generally overseeing one to five case managers, depending on facility size. In smaller facilities (CCO & WEC), there is one unit manager who often acts in the unit administrator role while continuing other duties that may otherwise be done by a unit or case manager. In larger facilities, there is usually one unit manager overseeing one or two units. They would also likely have one or two case managers under them. These unit managers maintain day-to-day operations of their unit (sanitation, policies, and some misconducts). Case managers are responsible for all individuals in one, or more, housing units. Ideally, each housing unit has an additional one-to-five case workers, overseen by case managers. Case workers deal with day-to-day needs of their assigned housing unit and, in some facilities (NCW & WEC), have their own inmate caseloads. Case management staff attend similar security training as custody staff, as well as additional case management training. Notably, unlike custody staff, case management staff typically possess a four-year college degree and may lead non-clinical programming (e.g., Thinking 4 a Change [T4C], Moral Recognition Therapy [MRT], & Seven Habits). Case Managers hired after 2018 are expected to facilitate a non-clinical program for at least four hours a week, when staffing levels allow.

Clinical staff assess, recommend, and lead a specified set of intensive clinical treatment programming modules for individuals. Programming modules that fall under the clinical banner include, medical services, mental health, violence prevention, sex offender, and substance abuse treatment. As described previously, at intake, clinical administrators complete and gather assessment data, providing treatment recommendations for all individuals at admission. Three teams of clinical staff make treatment recommendations at intake and upon reassessment. The Clinical Violent Offender Review Team (CVORT) specializes in violent offender assessment and recommendations; Clinical Sex Offender Review Team (CSORT) specializes in sex offender assessment and recommendations; finally, the Substance Review Team specializes in substance

abuse treatment recommendations. It should be noted that, to ensure efficient use of established resources, *all clinical treatment programs are not available at all facilities*, which is a common characteristic of state correctional systems. While treatment participation is voluntary, clinical staff make recommendations to the classification team, suggesting individual facility transfers to receive recommended programming. Clinical staff at each facility provide recommended treatment programming, outline cohort sizes, treatment length and modality based on clinical staff recommendations.

Highlighted Staff Policies and Procedures

Within the last five years, NDCS has observed a growing issue of staff shortages. At the time of the process evaluation, there were record levels of the custody, case management, and clinical staff vacancies observed, creating difficulties in hiring and retaining qualified employees (Koebernick et al., 2022). Notably, case management staff were often asked to complete custody supervision roles, taking additional responsibilities such as supervising inmate movement, assisting in inmate count, and filling shifts in the tower[16].

As a result of staff shortages, three NDCS facilities were forced into a state of 'emergency staffing.' This status switches facility staff to two 12-hour shifts a day from three eight-hour shifts, requiring fewer custody staff. These shortages were greatest at TSCI, RTC2, and NSP. Omaha staff on 'special detail' were transported to TSCI to supplement staffing. Staff worked many hours of voluntary overtime and were required to work mandatory overtime as per their collective bargaining agreement.

In an effort to hire and retain custody staff, hiring bonuses were offered and advertised widely. These bonuses provided a 'signing bonus' for new hires and additional bonuses for current staff recruiting new hires. Further, as we were conducting focus groups, raises were initiated for both custody and case management staff. Early indications suggest that pay increases had the desired effect and reduced staffing needs as a result (Alamdari, 2022).

Treatment & Programming

As discussed, individuals are recommended for treatment and programming at admission and upon reassessment/reclassification. The term 'treatment' is reserved for clinical interventions (i.e., medical services, mental health, violence prevention, sex offender, and substance abuse treatment). By contrast, the term 'programming' refers to all non-clinical interventions with a known evidence-base of recidivism or infraction behavior reduction (e.g., Thinking 4 a Change [T4C] & Moral Recognition Therapy [MRT]). Additional 'voluntary' programs and services are also provided, such as recreation opportunities, Victim Impact, and Prison Fellowship.

All clinical interventions are assigned based on diagnostic criteria used to determine the intensity of treatment recommended based on the individual's needs presented at assessment. For example, residential treatment is the highest intensity of intervention for offenders with substance use or sex offending needs and requires a segregated unit of individuals with a similar

[16] We note that tower shift would typically be completed as voluntary overtime.

level of needs, while outpatient treatment is provided to individuals housed in general population units and is reserved for those presenting a lower level of treatment needs.

Non-clinical programs are provided to individuals presenting needs based on their STRONG-R assessment at intake. For instance, programs such as MRT and T4C are provided to individuals presenting moderate or high needs (respectively) on several domains of the STRONG-R needs assessment.

Highlighted Treatment & Programming Policies and Procedures

NDCS prioritizes clinical treatment over non-clinical programming needs. For those individuals with multiple needs, case managers and clinical staff attempt to sequence delivery to provide an optimal level of efficacy. For example, to prevent relapse, residential substance abuse treatment is provided near the end of an individual's estimated term of release.

Some non-clinical programs are available in the community. Therefore, individuals without requisite time to complete non-clinical programs, such as T4C, are no longer required by the Parole Board to complete programming in the prisons and can be recommended for community programming. Notably, NDCS prioritizes individuals completing educational programing for those without a high school degree or GED, where obtaining a GED is sometimes prioritized over clinical programming for those twenty-two years and under.

As mentioned, all programming and treatment is voluntary. Assessment lists are comprised of all individuals recommended for programming and treatment, regardless of TRD. Priority lists are comprised of individuals that are in-line to be offered programming/treatment based on needs and release date. Individuals are not removed from the priority for refusing to participate. Thus, priority lists of likely participants are typically larger than those that have agreed to participate.

Infractions

Like all state prisons systems, infraction behavior is outlined by department policy, with several levels of severity. There are three classifications of code of offenses: Class I: Major offense (i.e., murder/manslaughter), Class II: Moderate Offense (i.e., use of threatening language), and Class III: Minor Offense (i.e., flare of tempers). There are two Disciplinary Committees to review reports of misconduct: the Institutional Disciplinary Committee (IDC) at the facility level and the Unit Disciplinary Committee (UDC) at the unit level. Individual rules and regulations states that:

> "An inmate may not be disciplined without the approval of the warden or designee. The warden may modify or decrease the sanctions imposed by the disciplinary committee but may not increase the severity of those sanctions. The Warden's responsibilities under this paragraph may not be delegated to anyone who served as a member of the disciplinary committee hearing the case to be reviewed."

When serious infractions occur, restrictive housing (i.e., segregation) options are considered. When behavior is determined to be non-violent (i.e., contraband property or illegal drugs), restrictive housing stays are short lasting sometimes less than a day or even not used at all. However, when behavior is violent and a threat to inmate or staff safety (i.e., possession of a weapon), policy dictates the use of restrictive housing up to 30 days in restrictive housing or Immediate Segregation Status (ISS). Longer-Term Restrictive Housing (LTRH) is a classification based restrictive housing assignment that lasts over 30 days. LTRH is used as a management intervention for individuals whose behavior continues to pose a risk to the safety of themselves or others and includes individuals' participation in the development of a plan for transition back to general population or mission-specific housing. Thus, individuals requiring longer terms in restrictive housing may also undergo a 'step-down' program before being returned to the general population.

For certain serious infractions, individual's 'good time' can be forfeited. Further, a significant infraction may result in an immediate scoring of an individual's reclassification assessment, potentially leading to a demotion to a higher custody level. Readers should note that individuals' 'good time' can be restored after a period in which they are observed to be infraction-free. For good time to be restored, the individual needs to have no Class 1 misconduct reports in the past year and no misconduct reports of any kind in the past six months.

Highlighted Infractions Policies and Procedures

In the last 6 years (2017 & 2023), NDCS has made two updates to its misconduct policies. Recent changes have focused on reducing the use of restrictive housing and the punitiveness of sanctions for certain types of infractions. Further, state statue indicates the need to reduce the use of restrictive housing for special populations, such as those with diagnosed mental health issues or traumatic brain injuries. As indicated, NDCS policies on restrictive housing have advanced, moving beyond the minimum standards set by the legislature. Specifically, terms of restrictive housing have been reduced and are no longer used for disciplinary reasons. Also, those in restrictive housing are allowed out of their cells for at least one hour each day. Further, reductions in the use of restrictive housing to only current or future threats of violent behavior were adopted in 2016, with additional adjustments to the policy in 2018 and 2020.

Finally, changes were made to sanctioning of the infraction 'possession of illegal substances or a positive drug test'. Rated as serious misconduct, individuals previously were sanctioned via temporary removal of visitation rights and inability to promote. This policy has been modified, removing the additional sanctions following possession of illegal substances or a positive drug test.

Vulnerable Populations, Keep Separates, STG, and Intelligence

Vulnerable populations are those at risk of victimization, such as those 18 years of age or younger, pregnant, diagnosed with a serious mental illness, or diagnosed with a developmental disability or a traumatic brain injury, or those defined by. 'Central Monitoring as pairs or groups of individuals that were collectively involved in a criminal event or are adversaries in which

close contact may increase the opportunity for serious or violent misconduct or recidivism upon release. Security Threat Groups (STGs) commonly represent individuals presently involved in a gang activity.

NDCS Intelligence and Protective Custody (PC) staff track information regarding these three populations. When necessary, individuals may be transferred to a different facility to maintain the safety of staff and individuals. In addition, protective management (PM) units are established to provide additional security for vulnerable populations that cannot be housed in general population units. Moreover, any individual may request protective custody. When this occurs, an individual is housed in immediate segregation until investigation is completed. Once the threat of victimization is determined, NDCS then determines the need for assignment to a Protective Management (PM) Unit. Only two facilities are established to house PM populations – TSC and RTC2[17].

Highlighted Policies and Procedures

Intelligence investigations and recommendations are classified, and not viewed by most staff. It is not uncommon for an intelligence recommendation to be used when an individual's classification scoring does not reflect their safety needs, where classification may recommend promotion (or demotion) of an individual to a new facility, only to have said recommendation changed due to the concerns and recommendations of intelligence staff. These decisions aim to gain greater information and safety within the institutions. With that said, administrative staff indicated that intelligence information is only provided on a "need to know" basis to allow individuals to feel safe about sharing information.

NDCS has increased the number of PM housing units in recent years. Prior to 2017, only a single housing unit was used for staff estimated to be roughly 150 individuals in PM. Staff indicated that the number of facilities with PM units has expanded to house (what they perceived to be) roughly three times the individuals housed in these units just three years ago[18].

Interviews and Focus Groups

Interviews and focus groups are common qualitative processes used to collect information from persons engaged in, or operating, a program or system. The procedure is defined as a carefully planned series of discussions designed to obtain perceptions of a defined area of interest in a receptive environment (Krueger & Casey, 2009). Generally, interviews and focus groups are a way to gather information about attitudes, beliefs, and feelings regarding the operations, as well as perceptions about needed adjustments.

For the current study we used townhall-style focus groups with staff from each of the (what was then) ten institutional facilities across Nebraska. To provide a backdrop to the

[17] We note, as of 2023, only TSC and a RTC unit houses PM individuals.
[18] It should be noted that these figures are merely estimates of the three-year growth that was described by both line and administrative staff. Further examination and more specific findings are required to confirm the extent and magnitude of this upward trend in PM unit placements.

qualitative data gathered and themes discussed, we first will provide an overview NDCS policies and processes that guide the process and flow of individuals from intake through release. While exceptions and variations exist, this description can serve as a guide for readers to provide a general framework. Through this description, we highlight key policies, procedures, and recent changes relevant to thematic staff discussions.

Interviews were conducted remotely via video conference. Focus groups were held onsite at each of the facilities and were roughly two hours in duration[19]. For each focus group, we requested a cross-section of staff from a variety of institutional areas, which included custody, medical, programming, education, counselors, Intelligence & Investigations, Correctional Industries, work release, and support staff. Focus groups were scheduled and arranged in collaboration with NDCS staff, who assisted researchers with arranging each meeting and inviting staff via an email notice. Email invitations gave a brief overview of the focus group topics to be discussed and encouraged staff to attend. Focus group participants were not required, nor limited to, specific staff members.

Each focus group session was conducted at a given facility. Researchers began each session by introducing themselves and providing a brief overview of the research project, as well as their intent to gather information and opinions regarding the classification tool from each focus group. Staff were informed that researchers would be taking handwritten notes detailing major themes, but all responses were anonymous and no names or personal information were included in the focus group notes. A semi-structured format was used to facilitate discussions with staff. A series of questions related to topics of interest were used by the research team to guide focus groups, but space was given to allow staff to discuss topics that mattered to them and their specific facility.

Upon focus group completion, notes were compiled and entered via qualitative software for analysis. Details regarding each facility were parsed into key themes to generalized process evaluation findings. First, pre-existing themes, described in the study proposal, were coded to allow researchers to examine thoughts related to classification and individual movement though the prison system. Next, emergent themes were analyzed using a latent coding process to outline additional areas of concern. The combination of these two coding techniques resulted in selection of themes related to staff attitudes towards current NDCS practices and crowding issues.

Following interviews and focus groups, NCJR researcher notes were compiled, where several major themes emerged in relation to individuals' classification process and flow. Themes are presented in progression, with earlier themes laying the groundwork for more complex later themes. General themes included: crowding, classification, staffing, behavior and management, programming, bottlenecks, and resources needed. Sub-themes are also indicated and, where appropriate, issues discussing the impact on specific facilities are outlined.

Crowding

[19] Due to schedule and travel restrictions and staff availability WEC and NCYF focus groups were completed via video conference.

A primary rationale for the current report is to identify efficiencies that have the potential to impact crowding. As previously indicated, crowding can be assessed by design and operational capacity. While all male facilities demonstrate substantial crowding at both the design and operational level, the amount and impact of crowding varies by facility and magnitude. There were three sub-themes discussed by staff, including front (and back) door admissions, needed and unneeded beds, and no safety valve.

Front (and Back) Door

As described, while crowding is a systemwide concern, one facility outpaces all others – DEC/RTC1. When speaking with reception staff, they believe they "take the brunt" of the crowding burden and are simultaneously perceived as the driver of crowding in other facilities. This is caused by the front (i.e., new admissions) and backdoor (i.e., revocations) issues that have been issues for several years.

At the time of our focus groups and interviews, DEC/RTC1 had a population of 570 for a facility designed to house 160 and an operational capacity of 280[20]. Staff described that only 350 individuals have beds, while the remainder sleep in 'cots.' The location for these cots is described as 'any free space,' meaning the gym, programming space, conference rooms, and hallways are filled with cots each night, as needed.

While reception is designed to be the gatekeepers for the NDCS system, they do not have the authority to close the front or backdoor to make crowding manageable. That is, once a judge sentences an individual to incarceration, they are the responsibility of NDCS and make their way to DEC/RTC1. This is a similar scenario when the Parole Board revokes a releasee on community supervision. Staff described the context of these processes, where DEC/RTC1 does not have the ability to change the circumstances at admission, having to accept all who are brought to their front door despite current crowding levels. Further, many individuals await transfer for months after being fully assessed. However, with no beds available in the other male institutions, individuals sit. For those that require a more specified bed location, typically because they are a known sex offender or request PM, the wait is long (sometimes over a year). For individuals with shorter sentences, staff suggested that remaining in county jail would be ideal for both NDCS and the individual. This scenario would have the added benefit of keeping individuals closer to their family and social support systems.

Needed & Unneeded Beds

When we asked staff where beds are needed within the NDCS system, responses were mixed, depending on the facility. LCC/RTC2 and TSCI staff indicated a need for a greater number of higher security and protective management (PM) beds. Staff at both facilities drew a direct connection between the extensive use of K2, change in gang individual culture, and changes in sanctioning and restrictive housing use for substance use and possession infractions as the driver of PM requests and the need for additional PM beds. However, staff with historical

[20] At the time of writing this report, it was noted by NDCS staff that the RTC1 population is now well under 400.

knowledge of the NDCS system were skeptical that a larger proportion of high security and PM beds would solve crowding problems, indicating that the last expansion to TSC only reduced crowding for a short period, before all beds were filled, and crowding levels returned.

Staff at lower custody levels (medium, minimum, & community) indicated a need for more community beds. While waitlists have declined recently, staff noted that nearly all individuals are focused on getting work release. Staff suggested that increased transfer opportunities would provide greater motivation to complete programming and remain infraction free. Further, placing facilities in locations near communities where people return is optimal, as most staff suggested the need to greatly increase the capacity of community beds in Omaha.

However, not all facilities were at capacity. Empty beds were also observed, representing a potential area to gain efficiency. Both staff focus groups and facility tours revealed areas that were unused at both female facilities and NCYF. Regarding NCYF, staff noted that the youth facility has recently been accepting adults with longer terms who are willing to act as youth mentors, with a greater capacity to accept additional individuals. Regarding the two female facilities, current estimates and observations indicated that both facilities are operating at 60-80% of operational capacity. Furthermore, staff indicated that many women at NCCW "could be safely supervised at a lower level or even released to the community". The female wing of CCCL functions with a similar reduced capacity, where staff noted that open beds could be filled with a scoring change to the female classification tool and/or overrides, which in-turn could fill that facility. While administrative staff agree that a greater proportion of females could be housed in the community, with open beds at all security levels, classification and flow is less of a pressure point for female facilities.

Safety Valve

Staff noted that there is "no safety valve" when NDCS gets stretched too thin. DEC/RTC1 staff indicated that, as soon as a bed becomes in another facility, they have a waiting list of individuals to fill it. Ideally, each facility would have extra bed space to keep in reserve. This reserved bed space would provide flexibility for staff to move disruptive individuals, and generally provide needed space for the ebb and flow of populations. As will be further discussed, without retaining a safety valve, or reserve beds, conditions for both staff and individuals have the potential to deteriorate.

Classification

The process of classification is multi-faceted, requiring a) case managers to score the classification/reclassification assessment tool, b) make recommendations for facility placement, c) obtain Warden approval, and d) then obtain approval from the Deputy Director. Within this system, the next actor/set of actors in the chain of command depends on the previous, providing recommendations that are consistent with maintaining the safety and rehabilitative efforts of the institution. However, when issues arise, the decision chain is impacted.

At intake, staff indicated difficulty in completing assessment items that may require knowledge of the offender. Further, DEC/RTC1 and NCCW identify similar issues with scoring

at intake, where DEC/RTC1 staff indicated that a vast majority of males score low risk, but NCCW find females to be scoring higher than needed. Many scoring adjustment recommendations were provided by staff, indicating a need for an updated version of the IRA classification tool to improve prediction and corresponding training to ensure consistency in scoring across facilities.

Regarding the reassessment, staff indicated that more information should be incorporated to improve prediction. Specifically, staff indicated that there is a need to have items reflect individuals' behaviors and attitudes. For example, refusing to attend programming is an indicator that an individual is not ready to be promoted and adjusting scoring would act as a motivational mechanism. Also, completing programming should score toward promotion. Further, while staff understood the complexities of classifying offenders across an entire system, case managers wished their opinions were given greater consideration when assessing an individual's readiness for transfer.

Regarding misconduct, staff noted that some infractions should decay following a sufficient period. For example, individuals committing serious or violent infractions should not have said infraction prevent promotion five-to-ten years after they were committed. In contrast, some infractions, such as drug intoxication or drug and/or cell phone possession, should be given greater weight given their influence on unit management. It was suggested that these adjustments may help resolve issues related to PM requests and provide a method of discipline that is not tied to restrictive housing. Also, security threat group (STG)/gang behavior should be considered, and mechanisms to isolate drug dealing within the prison should be established via segregated housing units. Given that these adjustments are needed because of recent policy and populations changes, it also suggests that the classification assessments need to be routinely updated.

Most staff indicated a need for a new/updated classification tool. Since the last tool was developed, major policy changes and population shifts have occurred. Due to these issues, the tool is "frequently overridden to get individuals to the proper security level". Staff expressed the need for greater standardization, where the tool should "work on its own" without the need for much oversight. Administrative staff agreed that greater education, communication, and research is needed around classification. Further, the classification tool is not operating as designed, where some facilities house individuals in shared designations (i.e., Max/Medium, Medium/Minimum) complicating individual management and increasing the likelihood of misconduct.

Finally, staff suggested the need to create a separate tool for promotion to a community facility. Given the distinctions in facility mission and security, a classification tool specific for the behaviors and skills needed for management of this population would be welcomed and beneficial to staff. This tool could focus on program completion, vocational training, education achievement, and recent substance use. Assessed needs for non-clinical programming, employment, and readiness could be provided via NDCS's STRONG-R assessment. Additional indicators, such as recent misconduct reports, prior escapes, and parole violations can be used to predict individuals likely to have a successful transition and completion of work release. Administrative staff also indicated that community custody serves multiple missions, where promoting individuals to lower security restrictions must also be prioritized.

Staffing

Staffing and crowding are inextricably linked. In fact, staffing is an element considered when assessing a facility's operational capacity. There are several reports (Bischof, 2021, September 13; Hammel & Gentzler, 2021; Lundak, 2021) outlining the staffing issues that NDCS has experienced in the last five-plus years. Staff stated that if a new facility was created as a "replacement facility" for NSP, it would provide greater employment opportunities for current staff.

Dual Roles

Recent custody staff shortages have caused case workers, case managers, and even unit managers to occupy dual roles, serving custody posts along with their assigned duties. Case workers take the bulk of the custody staff demands, remarking that it creates a conflict of interest and makes it difficult for individuals to trust that they are working to support their safety and progression. Working outside of their outlined responsibilities stretches case management staff, reducing time to provide non-clinical rehabilitative services, complete reclassifications, and write misconduct reports.

Perceived Causes

A perceived cause of staffing issues relates to compensation. As discussed, to attract new custody staff, increased salaries and bonuses were provided for new hires. However, staff indicated that the historical knowledge and loss of experienced staff has taken a toll on training, where newly hired staff are quickly moved into their roles with reduced time to properly achieve on-the-job training. Administrative staff made similar comments but with recent compensation adjustments provided to existing staff, they perceived this issue as resolved as of the time of this report's creation.

Behavior and Management

At most facilities, staff discussed common concerns regarding individual behavior and management. Some in the NDCS administration pointed to STG behavior as a major driver of need for a new facility, noting that safety concerns would be reduced if there were more maximum-security beds in which problematic individuals could be dispersed. Interviewees at high security facilities agreed that more beds would assist in reducing crowding, yet focus group participants were not in agreement, noting that more beds would likely not reduce STG/gang behavior. While many agreed that more maximum-security beds were not needed from a capacity standpoint, upgraded 'replacement beds', designed to house 'only' maximum security offenders were. As mentioned previously, mixed security levels were perceived by staff to create greater opportunity for misconduct. Therefore, providing the right facility control for the most challenging populations is needed to reduce infraction behavior threats, creating an environment that is more conducive to positive change. Staff in most male facility identified substance abuse,

drug distribution, contraband cellphones, as the driver of serious and violent misconduct. Specifically, staff indicated that gang leaders, or 'shot callers,' are difficult to manage and a select few cause most of the current issues around institutional drug use. Those at NSP, TSCI, and LCC/RTC2 indicated that K2 use in the general population has expanded. K2 is a newer 'designer drug' that has made its way into NDCS facilities. Its pharmacological properties can create periods of temporary psychosis for users, which increases opportunities for violence against staff and inmates. However, these drugs are difficult to detect. Staff indicated that district attorneys are hesitant to prosecute possession charges, unsure that cases will hold up at trial with unreliable testing. Further, when staff are stretched thin, catching individuals with contraband becomes more difficult. Staff indicated that they know who the 'shot callers' are and desired additional classification and facility options to disrupt drug markets and prevent future use.

Staff indicated with K2-related misconduct increasing, drug dealing by STGs has expanded. As the market expands, users obtain drugs on credit. As an individual's debt grows, there is a threat of violence, and PM custody is commonly requested. Thus, the need for PM units has expanded. Staff described that there is a unit with 'traditional' PM populations (i.e., sex offenders & former law enforcement individuals), but there are now separate PM housing units for those with drug debit who fear violent collection tactics.

Generally, staff believe STG culture has changed in the last 15 years, where violence and serious misconduct are more normative. While K2 is a difficult drug to manage and root out, problems exist beyond drug use and distribution. For example, non-STG members can be made to pay 'rent' to STG members to live on the unit. They also indicated that there is an intolerance of sex offenders living in general population units. Further, issues of gambling and extortion have driven up debit and a general fear of STGs for non-members and those that owe money. Many staff remarked that without the resources and tools needed to manage STGs, PM requests will continue to expand and require additional beds.

Similar issues with drug misconduct were identified at community corrections. Staff indicate that individuals that do not function well in community facilities are those that have prior history with substance use or are actively intoxicated. Staff were adamant that if drug use is not adequately addressed in a secure facility, individuals are "set up to fail" in the community. However, NDCS attempts to release individuals from the lowest level of security, and prior to this transition it is difficult to require individuals' sobriety to be established prior to community facility promotion.

Regarding parole revocations, staff suggested that they were seeing more returns than before. While Parole staff and the Parole Board indicated that multiple technical violations are commonly observed before a revocation occurs, NDCS staff indicated that the process does not appear standardized and at times "feels arbitrary." While some offenders return for more serious violations such as absconding, making threats, and repeated harassment of prior victims, many individuals are revoked for drug use, and missing meetings with parole officers. Although most staff note that "parole is a privilege, not a right," those that discussed the matter described the need for a greater structure to the revocation process and advocated for increased use of graduated sanctions. Specifically, there was a desire for more programming and treatment and other non-punitive responses to violations. Regarding punitive sanctions, some staff suggested

the need for greater uses of short-term jail sanctioning versus the culmination of violations resulting in an eventual severe sanction – revocation. Further, individuals committing new offenses should be handled through the court system, rather than using revocation as a *backdoor sentencing mechanism*.

Communication

A common frustration among staff was issues of communication. It should be noted that communication issues are often common for large government agencies, such as a department of corrections. Some staff were also quick to point out that communication had improved recently, noting a concerted effort to increase communication and feedback, replacing what was once perceived as a culture of staff unwilling to speak out.

That said, staff did identify several communications issues that could improve efficiency. First, they noted that DEC/RTC1, clinical assessment and case managers are given little information as to the rationale behind programming and treatment recommendations. Relatedly, clinical staff suggested communication with non-clinical program providers be improved to reduce over-programming and redundancies.

Several staff noted policy changes to the classification process are made by Central Office and are not well communicated to staff. Further, it was indicated that adjustments to classification tools and procedures have occurred, but information as to why changes were made is often not sufficient, and staff said they would benefit from "routine retraining sessions." Administrative staff noted that the pandemic took a toll on training. However, at the time of writing this report, leadership academies and new in-service training courses had been scheduled.

Staff at minimum custody facilities also indicated frustration with getting individuals to community at the most opportune time. As discussed, within current policy, it is optimal to place an individual in a community facility within at least 18 months of their sentence. However, the rationale behind this restriction is that it allows individuals to complete their work detail and gives them sufficient time to save some money prior to reentry. Staff remarked how individuals are "set up to transfer" with all their programming and services complete, only to have another individual "jump the line", pushing back transfer timelines for those remaining on the waitlist. Community staff indicated that it is common for individuals to arrive with less than six months to release, which does not allow the individual time to complete their detail assignment and begin work release. Staff say that some individuals "feel forgotten" remaining on the waitlist long after their ideal transfer timeline. However, administrative staff state this is an issue of competing interest combined with limited community bed space. While not ideal from a work release standpoint, jumping the line might reduce an impact on future recidivism and public safety.

Staff in minimum- and community-custody facilities, along with reentry specialists, noted frustrations with a lack of communication between NDCS and Parole. While the Parole Board provides a connection between the two, staff indicated very little continuity as individuals transition to the community. Regarding the Parole Board, staff indicated that parole policies often interfere with a consistent and stable release. For example, they expressed that "the Board

can be picky" with where individuals return, often giving preference to those returning to transitional living facilities, working in the community, or with fewer program needs, which may be a difficult task and not entirely under an individual's control. When the Board denies an individual's release, it is not often communicated why, and they frequently will send the individual back to a secure facility, bypassing their return to community corrections. These unseen processes further add to NDCS facility totals, complicating institutional flow and contributing to crowding.

Regarding reentry, NDCS specialists work to have an individual prepared for release. Specifically, a reentry plan is developed, outlining services and programming for the offender to connect with upon release. However, there is little communication with the individual's eventual parole officer, preventing continuity of a case plans. As reentry staff expressed how much time they spend preparing for every offender's release, they were disheartened at how little their work was used. Those with historical knowledge indicated that the separation of NDCS and parole created an unnecessary silo, where recombining the agencies or, at the very least, rejoining their assessment and transitional processes would be an important improvement.

Programming

As rehabilitation and progression through the NDCS system is often tied to programming, we asked staff about availability and efficiencies. Many common themes were described across facilities, including the need for programming sequencing, timing, and effectiveness. We distill these discussions here, but note the overlapping effect that programming has in other thematic sections.

Ideally, all programs would be offered at all facilities, yet staff and security restrictions make this ideal less feasible. With that said, staff noted that some programs need to be provided in additional locations to accommodate population changes, or more specifically, "putting the programs where the offenders need them." Regarding higher security facilities, staff expressed the need for more sex offender programming. While many sex offenders are housed at TSCI, NSP, and LCC/RTC2, inpatient programming is provided only at OCC, requiring individuals to promote to medium (or minimum) to receive it. TSCI indicated that individuals needing sex offender programming use a tactic of refusing all other NDCS transfers in the hopes that they will be sent to OCC. Further, due to the expansion of the PM population, TSCI staff indicated that residential substance abuse programming is only offered in PM and, as a result, many individuals that need to attend said programming use the tactic of requesting PM.

As discussed elsewhere, most clinical programming is reserved for the end of an individual's sentence, with the intended goal of providing a smoother transition to reentry. However, staff at minimum security facilities, serving as the transition point to community, indicated a need to expand substance abuse programming. While federal grants are often acquired to pilot new modalities, these funds dry-up and programming is either reduced or removed from a facility. Specifically, OCC indicated that they can only have a cohort of twelve

at a time in substance abuse programming, which is serving "roughly a tenth" of the population that need it[21].

A related issue is the continuation of programming. Given restrictions in cohort sizes, some individuals will begin a program only to have reclassification identify a promotion prior to completion. Staff must then choose to either hold the individual until program completion, thereby letting someone else take their coveted slot in a lower-security facility, or the individual transfers and is forced to restart the program at the new location. Staff suggested the need to coordinate programming that exists across facility locations, and even with Parole, so that individuals do not lose their progress as they promote. Further, staff suggested that some programs that are longer in duration could adopt videoconference orientation sessions prior to an individual's transfer, assisting with the facility transition. Administrative staff noted that work is underway to facilitate transfer from one location to another, while still remining in clinical treatment, however, logistics and policy must be adjusted to accommodate.

The impact of staffing shortages and crowding has also had an impact on programming. As described, staffing shortages mean that non-clinical programming is de-prioritized and often not provided. Regarding space, crowding has forced facilities to repurpose programming spaces. As we toured facilities, staff identified small offices and conference rooms that were now taken up as programming spaces.

Staff at minimum and community facilities indicated a lack of college and vocational training. Many individuals lack the requisite skills needed to secure and retain a skilled occupation requiring a degree or certificate. Not only are these programs needed to relieve idleness, but their completion could be used as motivation for early releases and additional freedoms. In addition, staff noted the need to have individuals begin the process of obtaining copies of their birth certificates, social security cards, and state ID cards, as the process of obtaining these documents often produces notable delays for work release. Administrative staff noted improvements in this area, bringing the DMV into secure facilities and paying for individuals' ID cards.

While most programming was discussed in terms of general needs and restrictions, one was mentioned by many staff. If an individual is recommended to attend Domestic Violence treatment, NDCS provides a singular modality. The program is 36 weeks, is offered by a private provider, and thus, is only available for those individuals in a community facility. Staff strongly believe that those in community facilities should be focused on work release, not programming. If recommended, this program is one that the Parole Board requires completion prior to release. Staff indicated that most individuals do not have the requisite time on their sentence, prior to their hearing, to complete current domestic violence programming. This has caused many with the requirement to forgo parole and instead 'jam out.' Unfortunately, the Duluth Model is currently advocated by the legislature, and requires Domestic Violence (DV) treatment in the community[22].

[21] At the time of this report, it was noted by NDCS staff that all residential substance abuse treatment is completed at RTC2.
[22] As of the writing of this report, NDCS has begun offering a new DV program.

Table 2. NDCS Programming

Program	Program Type	Location	Population	Security Level
Residential Substance Use Treatment (RSU)	Residential Substance Abuse Treatment	NCW	General Population	1X-3A
		NSP	General Population	3A
		OCC	General Population	2X-3A
		TSC	Protective Management	1X-2X
Inpatient Healthy Lives Program (iHeLP)	Residential Sex Offender Treatment	OCC	General Population	2X-3A
	Outpatient Substance Abuse Treatment	CCL	General Population	4A-4B
		CCO	General Population	4A-4B
		WEC	General Population	3B
Outpatient Healthy Lives Program (oHeLP)	Outpatient Sex Offender Treatment	NCW	General Population	1X-3A
		NSP	General Population	
		OCC	General Population	2X-3A
		TSCI		1X-2X
	Domestic Violence	Community Provider Only		
	Violence Reduction Program (VRP)	LCC/RTC1 NSP OCC TSC		
	Violence Reduction After Care	NSP TSC		

Bottlenecks

A major theme of the project and discussion point for staff interviews and focus groups was the source of bottlenecks. Here we outline *'bottlenecks' as processes or inefficiencies that prevent individuals from promotion and moving toward early release*. Staff outlined eight major sources of bottlenecks, including 1) bedspace, 2) 'right' facility placements, 3) short timers and violators, 4) community corrections and waitlists, 5) programming & holds, 6) female-specific

restrictions, 7) Safe Keepers, and 8) parole restrictions. This section distills staff comments in these areas.

Bedspace

Mentioned previously, crowding is a major bottleneck. There are often no beds to move people to when they are eligible to be promoted to a lower custody level. Once approved for promotion it is difficult to move individuals quickly and they often must wait for someone to release, or promote, in a facility with the needed security level. For individuals at the highest custody level (e.g., NSP, TSCI and LCC/RTC2), this may mean that someone needs to be released from community, allowing someone from minimum to take the community bed, which then allows someone from TSC to promote to minimum. Further, this process can be upended by new admissions or parole violators taking a bed in the desired facility. Staff at TSC noted that individuals approved for transfer sometimes wait for months and may even wait long enough to have time for another reclassification, parole board review, or commit an infraction while awaiting transfer, altering the original plan. Thus, more empty beds need to be created, and open beds need to be sustained, to provide degrees of freedom to get individuals to an appropriate custody level or placement.

Right Placement

Another common bottleneck discussed by staff concerned the type of individuals transferred. As indicated, NDCS strives to move individuals to the lowest level of custody required for safe supervision. Unfortunately, behavior that is not directly related to safety may impact facility goals and management. Staff spoke of individuals being promoted with multiple misconduct reports in the six months prior to transfer to minimum or community custody. More specifically, when individuals with recent reports of drug intoxications community staff indicated individual difficulties staying sober and functioning within a work release environment. Staff indicated that this might be an issue for a substantial portion of their population and suggested a need for individuals to demonstrate a sustained drug-free period prior to promotion or entering maintenance programming (e.g., AA/NA) to encourage sobriety.

Short-timers and Violators

A common theme for most facilities, but emphasized at minimum and community custody, are the issues that surround those individuals starting NDCS supervision with less than a year on their sentence. Referred to here as ‘short timers,’ these individuals are those sentenced by the courts to a NDCS sentence that received ‘time served’ for the portion of their sentence served in pre-trial detainment. While NDCS supervision is typically reserved for those individuals that have greater than a year to serve, these short timers are not uncommon. Further, those revoked commonly return with less than a year of prison time remaining.

A noted problem is that NDCS policy and mission do not align well with this population. At reception, if an individual is sentenced to serve with less than sixty days, staff spend most of their sentence completing the intake assessment and not able to transfer these individuals to another facility. For those with seven-to-twelve months, NDCS attempts to find a placement, but

these individuals are not likely to receive programming or work release. Many of these individuals find themselves 'warehoused' in a special NSP housing unit, awaiting release. If these individuals are transferred to a community facility, most of that time is spent in orientation and completing work detail. Thus, short timers end up jumping the waitlist line for desirable facility slots, bottlenecking others from minimum and community transitions.

Regarding parole violators, these individuals are perceived to cause considerable upheaval to the process and flow of the current individual population. Reception staff indicate that violators represent a substantial portion of their population, greatly contributing to the crowding observed in DEC/RTC1. These individuals make their way to a community facility, having little time to benefit from the programs and opportunities, and instead take up a valued spot. Recently, DEC/RTC1 has tried to limit transferers to community to those that have at least ninety days remaining, but staff recognized that even ninety days is not sufficient to provide an individual with appropriate benefits of community. Further, clinical staff recognize that these individuals are often revoked for multiple violations of substance use or possession. They suggest that these individuals would be better served attending treatment programming in the community for substance use.

Community Corrections Waitlists & Utility

A related issue concerns the effective use of community corrections and the waitlists of participants. Staff indicated that NDCS policy, and recent modifications to community corrections practices, have altered the previous entrance criteria and individual processes. To provide context, community corrections is designed to be the last facility prior to release and is reserved for those individuals that are lower risk to commit infractions and recidivistic behaviors. Individuals are eligible for community transfer when they are within three years of release. Many individuals not eligible for community release, often due to sentence type or structure, may go to WEC, while those not eligible for community will be released from minimum custody.

Community corrections is a perceived advantage for individuals, as it allows additional freedoms including work release. Earning money via work release allows individuals to support their family, pay off accrued debts, and establish savings to be used for their initial months following release (e.g., for rent, transportation, food, etc.). However, within the first thirty days of transfer to community corrections, the individual is assigned to 'work detail'. These jobs usually consist of remedial work in a government building, such as front desk at central office, cleaning the capitol, or road crew. These are contracts that NDCS has procured for inmate labor and provide a transitional work environment. Yet staff did not state a known rationale for work detail assignments, suggesting they were not a recognized part of the rehabilitative process, only that "these are contracts from the state that we must complete."

Eligibility criteria for community custody are generally easy for most individuals to achieve and in prior years, waitlists for community corrections ranged from 100-to-200 individuals. Staff noted a policy in that all community waitlist approvals are to be provided by the Deputy Director. While this policy had been in place for several years, staff indicated a recent increase in its use has dramatically changed waitlists, when have decreased to 25-to-50 individuals. Yet, staff were not aware of a policy or population change causing the shift.

Administrative staff indicated that policy/practice changes occurred to increase access and retention, acknowledging that more research and communication in this area may be needed.

Nonetheless, with limited beds and waitlist positions available for community facilities, staff noted individual frustrations with perceived 'line jumping', where individuals next in line for community were denied promotion, as staff opted to place another individual with closer to release in the open bed. WEC staff suggested this occurred often for their population, where individuals "feel stuck" and skipped over.

Yet, both community and secure facilities indicated a need to prioritize the community waitlist based on individual behavior. Specifically, given the current issues of drug use within NDCS facilities and the relative ease at which an individual might obtain drugs in the community, staff suggested returning to an NDCS policy that limits promotion to those that demonstrate sobriety within six months prior to transfer. Related to the discussion of the 'right placement,' extending the criteria to those earning community promotion would improve facility functionality and prevent returns to secure custody following infractions for drug intoxication, as community staff estimated that fifty or more incarcerated individuals per month were found guilty of drug intoxication.

Furthermore, staff noted that individuals' requirements to complete programming and work detail hamstring their ability to create a transitional living fund, which is essential for their initial months of release. Community staff suggested that NDCS reconsider work detail contracts allowing individuals to enter work release sooner. Staff noted that employment contactors are consistently calling and requesting NDCS send them more work release individuals, yet individuals are not typically allowed to be on work release until work detail is completed.

Programming & Holds

For those with multiple programming needs (e.g., criminal thinking, substance abuse, violence, sex offender, etc.) there may be a need to transfer individuals to several facilities, sequencing program receipt. Taking into consideration classification and individual movement needs of the department, 'holds' to receive needed programming prior to transfer can create logistical issues that are difficult to disentangle. For example, some clinical programing requires residential housing units that are separate/isolated from the general population. These intensive programs are 'backloaded,' often reserving participation for the last two years of incarceration to ensure that skills learned by individuals transition to the community and, for substance abusers specifically, to help maintain sobriety. It is important to note, however, that backloading programming is not in line with clinical recommendations or based on research evidence. Further, staff noted that with those who had multiple needs, some individuals are 'over-programmed,' where they seemingly do not have sufficient time to complete recommended programming prior to their parole hearing. Our focus group with the Parole Board reiterated these issues, where they further indicated that not completing recommended programming was a common reason for denial. Meanwhile, long-term individuals may wait several years for treatment, presenting difficulties for maintaining sobriety during incarceration. However, administrative staff did not share this perception and believe greater research into treatment participation and parole denials is needed. Interacting with logistical issues of 'backloading,'

many programs are long in duration and/or require individuals to meet eligibility criteria for classification to a lower security level. For example, residential substance abuse programing is six months, and with cohorts of 30, there is difficulty serving everyone with needs, on time.

While many individuals are eligible for outpatient and/or non-clinical programing many are released without receiving it, instead relying on available community resources following release. Further, the Domestic Violence program is provided by an outside vendor, of which there are limited resources and cohort sizes. DEC/RTC1 reception staff indicated that sex offenders awaiting a bed in a facility that provides treatment make up roughly 20% of their population. However, administrative staff has indicated that as of 2023 the TSC population has absorbed much of the long-term sex population after the expansion of DEC/RTC1. Given the limited bed space, individuals with multiple needs may spend a substantial portion of their incarceration waiting and participating in programming to meet parole expectations for release. Those who cannot complete or refuse programming may instead 'jam out' without program participation.

Women

For females, there are two notable bottlenecks. The first results from the IRA classification tool. While recent updates to the tool attempted to decrease the overclassification of females, staff indicated that adjustment did not go far enough. Specifically, NCW staff indicated that a substantial proportion of females could be housed safely in a community facility yet are not approved for promotion. Staff mentioned that they often use overrides to get overclassified women to community settings before their parole hearing, going around the classification recommendations.

Safe Keepers

As previously described, County Safe Keepers are a population of pre-trial detainees that a judge or jail administration has indicated are not safely housed in county jail. Following this decision, Sheriffs and/or county court administrators enter into a contract with NDCS to hold county safe keepers. While sometimes these safety concerns are result of simple restrictions, such as not having the ability to house both men and women separately, many times Safe Keepers are referred to NDCS for medical restrictions. Safe Keeper status is commonly a response to a detained individual's serious mental illness (SMI).

Clinical staff indicated that this population creates a burden on staff resources. Specifically, Safe Keepers end up occupying NDCS's mental health beds. Clinical staff are required to evaluate individuals to determine where they can be housed safely, suggesting that the mental health facility at the Lincoln Regional Center (LRC) is ideal for many individuals. However, there is a long waitlist for LRC placements, and many recommendations can go unnoticed by county judges requesting evaluation. As a result, Safe Keepers typically end up serving most of their sentence, as pretrial 'time served,' at an NDCS facility. If they are convicted and sentenced to time in an NDCS facility, they are reevaluated and treated by the same clinical staff, which they suggested created a conflict of interest.

Parole

Finally, the Parole Board's approval process can create a noteworthy bottleneck. All NDCS staff, including representatives from Parole, agreed that the criteria that the Board uses to justify release is well-understood. Specifically, individuals are commonly denied parole when they: refuse clinical treatment, have multiple serious misconduct reports, have multiple instances of using threatening language, and exhibit drug intoxications. While misbehavior can be overlooked, the Board likes to see few, or none, in the six months prior to their scheduled hearing.

However, while the reasons for parole denials were universally understood there was not an NDCS staff consensus on if the rationales for parole denials were always communicated by the Board or consistently applied, such as the need to complete programming. Further, they felt there was a greater need for the Board to communicate the rationales for denials to NDCS staff and potentially collaborate on an action plan to improve the individual's chance at their next hearing. Staff at higher security facilities (i.e., LCC/ RTC1 & TSCI) also noted the difficulties in obtaining parole when housed at a higher security level, and that victim impact statements are often used as rationales that reduce an individual's opportunity for release.

Resources Needs

The aim of Phase I was not only to collect information regarding the NDCS classification process, but to also gather staff ideas as to methods to improve processes and increase flow. Throughout our interviews and focus groups, staff provided suggestions of where resources could be added or redirected. In this section we outline some of the major themes that were discussed, including: where beds are needed, programming, staffing, tools, policy modifications, sentencing changes, and prison alternatives.

Where Beds are Needed

From recent media reports, most staff were aware of the proposed plans for constructing a new, high security prison. While there are multiples reasons identified for constructing said facility, few staff advocated for it. Some stated that more high security beds would allow NDCS to "spread out" the STG/gang problems, but these staff also worried that that would only be a temporary solution. Specifically, our TSCI focus groups outlined a need to spread out hardcore gang members, gang members requesting PM, and gang members working toward renouncing affiliation. However, one staff member with historical knowledge indicated that the same rationale was provided when TSC was created 20 years ago, where the same problems existed and have now expanded.

Others stated that a new facility would only be helpful if another was shut down. It is widely known that NSP is an older facility with persistent maintenance issues. While similar discussion points have been reported in the press, staff suggested that if a new facility is built, NSP should be "emptied out and leveled." Focus groups from DEC/RTC1 and LCC/RTC2 indicated that the new addition to their facilities would add 384 high security beds and assessment services.

Finally, when staff discussed where beds are needed, *the vast majority indicated community and minimum facilities*. Regarding minimum beds, staff indicated that additions at this level would provide greater opportunity for programming and preparation for community. Community staff suggested the need to move work detail to minimum or reduce individuals' number of detail hours, which, in turn, could increase time on work release. Others felt that community beds could be expanded to offer separate buildings/facilities for those that require programming. While CCC-L houses the vast majority of community beds, some thought that a "tripling" of beds is needed in Omaha, which would allow individuals returning to Douglas County to retain their work release jobs upon release. Finally, staff felt that smaller community facilities could be placed in counties throughout Nebraska, similarly allowing individuals to complete work release in the area to which they will return.

Programming & Tools

As discussed, given crowding and staffing issues, individual programming needs may be given create a substantial bottleneck for progression and flow through the NDCS system. While many staff indicated a need to expand programming, suggested options differed by facility. Staff at minimum security facilities indicated the need to expand programming that would assist in employment. As individuals transfer to the community, it would be ideal to "have them participate in vocational training that will increase their likelihood of success" upon release.

Staff at TSCI, LCC/RTC2, and NSP advocated for modifications to programs to allow provision in high security facilities. Programs such as Sex Offender and Domestic Violence are needed for a higher risk population yet are only provided at minimum and community facilities. Further while some sex offender programs are available at medium custody, overrides are used to move individuals to the housing units were needed programming is provided. Many of these individuals present co-occurring mental health issues that are more appropriately dealt with at a higher security institution. Notably, staff focus groups suggested the need to 'expand' the number of facilities that provide programming and not to simply 'move programming.'

Phase I Summary & Conclusion

Notably, both CSG and CJI's reports are useful in documenting the 'inputs and outputs' of the NDCS system. However, to provide strategic solutions for crowding issues, NCJR researchers sought to examine the *internal operations* of NDCS classification and potential bottlenecks of promotion, or flow, though the prison system. The process evaluation sought to engage staff and observe NDCS facilities, identifying key efficiency targets that restrict promotion timing and contribute to crowding.

First, staff discussed how crowding has been a constant for several decades. Because all other male facilities are full, DEC/RTC1 shoulder's the bulk of the overcrowding burden, placing individuals wherever they can, whenever beds become free. Further, staff indicate a need for more community beds and the ability to get individuals employed and working on reentry goals. Perceived blockages at the front and back door of NDCS represent potential obstacles and

are a focal point for further evaluation. Following the development of an updated classification tool in 2016, staff identified issues within the current tool that are needing adjustments. Specifically, reception staff indicated flaws to the risk-level categories in the initial classification for males. A common theme regarding classification was the need to update tools based on individual population changes and recalibration for current infraction problems impacting secure facilities. Staff in nearly every male facility discussed the issues managing STG/gang behavior resulting from drug use. In particular, staff feel ill-equipped to combat the influx of drugs.

Further, with a varying level of intensity and priority, staff attempt to navigate reclassification and transfers, moving individuals to facilities that offer recommended programming, in sequence, while timing provision to occur closest to release from incarceration. With crowding and expanded PM requests, transferring individuals to locations needed to receive treatment has become difficult. With very few degrees of freedom, movement is heavily restricted. Some of the system stress is created by 'short timers', or those with less than a year on their sentence. These individuals jump the community waitlist line and create difficulties for DEC/RCT1 specifically, and NDCS generally, restricting individual promotions. This bottleneck reduces the opportunity for individuals to complete interventions and receive services the Parole Board feels is needed, delaying release.

In Phase II of this report, we further gathered and analyzed data that can be used to assess the existence and magnitude of the issues described by staff. As part of project planning, at the conclusion of Phase I, NDCS and NCJR collaborated, identifying three deliverables to address in the statistical assessment of noted issues in Phase II. After a review of current research needs related to classification and crowding, NCJR and NDCS agreed on several focal concerns needed for additional analyses. Specifically, the areas of the 1) classification and custody alignment, 2) using mixed custody units, and 3) the impact of short timers on system crowding were deemed important and feasible to assess as Phase II deliverables. The next section provides the analysis and findings of the three outlined research deliverables.

PHASE II – IMPACTS OF NDCS CROWDING

Following our examination of the issues impacting NDC's crowding, we next sought to examine three key areas impacting NDCS prison crowding. These areas, outlined in the process evaluation, in many ways follow the previous reports completed by external consultants. For example, the CSG (2015) and CJI reports (2022) indicated a driving impact of crowding was due to longer incarceration terms and not new admissions increases. These findings suggest that the crowding may be creating additional problems in how individuals are classified and promoted through the prison system, generating release impediments.

Through a collaboration with NDCS, NCJR sought to identify solutions that would indicate a) the characteristics of a replacement facility that would improve safety and prison management and 2) potential solutions that may stem prison growth and reduce the need for a second 1,300 bed facility. Moreover, as shown by the many thematic issues described in the Phase I process evaluation, there are several interconnected areas of need that can result in, and be impacted by, prison crowding. For example, prison crowding can exacerbate safety concerns, when agencies are forced to house together individuals requiring different custody-security levels. Therefore, *as a prison population grows, it also changes*. Understanding how the population has changed as a result of crowding and its relative impact on promotion though the multiple facilities and security levels was a focus of the current study. In an effort to make strategic recommendations for improving efficiency and reducing prison growth, we were tasked to complete three study deliverables.

Deliverable 1: Classification Alignment

The first set of analysis (Deliverable 1) focused on Classification Alignment. Specifically, as the population has grown, we sought to understand if there are sufficient beds at the security levels individuals are recommended to be housed in and if the population's needs have changed over time. Given suggested issues of crowding and sources of bottlenecks, it is first necessary to assess if individuals were residing in locations that were higher (or lower) than their security level, recommended via the NDCS classification assessment. Using the classification tool as an indicator, we examined if individuals are misaligned with current security levels, as well as the direction and changes in misalignment trends over time.

Deliverable 2: Mixed Custody Impact

In the second set of analysis (Deliverable 2) we were directed by NDCS to explore the potential issues created by mixed custody housing units. In particular, NDCS uses mixed custody security level facilities, where individuals of different security levels are housed together. For example, there are facilities that house individuals classified as both medium with maximum, and medium with minimum together. These mixed custody housing units are the result of modifications to older facilities, where remodeling efforts combined facility levels to solve prior space limitations and crowding issues. Given their potential impact on prison safety, administration officials expressed concerns in managing mixed custody facilities, where true custody (non-mixed) facilities may improve management and reduce serious and violent

misconduct. To examine the impact of Mixed Custody units, we compared unit types and their rates of misconduct types.

Deliverable 3: Short Timer Impact

The final set of analysis (Deliverable 3) focused on the potential effects of those with short sentences on crowding. Termed 'short timers' these individuals were admitted with less than a year until release. As discussed, many of these individuals do not fit the mission of NDCS facilities, providing little opportunity for rehabilitation or work release interventions. Further, these individuals serve as a key system bottleneck, blocking promotion for others with a greater chance to benefit. To examine the extent and magnitude of the issue, we describe and compare short timers and their impact on crowding.

In the sections to follow, we describe our completion of each study deliverable. Readers will observe a common reporting pattern each deliverable. First, we describe the background of each of the three issues. Next, we outline the methods and findings. Finally, a set of recommendations and the next steps are provided.

Deliverable 1 – Classification Alignment

Due in part to rising crime rates witnessed in the 1970s, incarceration rates increased nationally for nearly five decades (Blumstein, 2011; Walker, 2014). In turn, prison populations quadrupled, making crowding a common issue for many states. Beginning in the 1980s the 'prison boom' was observed, where over the next two decades states began adding new facilities and expanding the number of beds available in current facilities. While crime rates eventually receded, incarceration rates continued to increase, meaning that as new prisons filled, crowding persisted despite crime rate declines.

In the 2000s, researchers and policy makers began to investigate the impacts of prison crowding (National Research Council, 2014). Early findings indicated the impact of prisons, particularly crowded prisons, is often detrimental to those incarcerated, as well as the communities to which they return. As prison crowding became widespread, primarily because of longer terms of incarceration, where sentencing enhancements, reductions of good time, and mandatory minimums served to retain individuals in prison for longer terms (National Research Council, 2014). While individuals were sentenced to longer terms, new prison admissions simultaneously continued to rise as well, amplifying crowding (National Research Council, 2014).

A decade later, the Council of State Governments (CSG) examined prison growth trends in several states, including Nebraska, as part of the Justice Reinvestment Initiative (JRI) (Justice Center, 2015). Common recommendations put forth for JRI states included reducing/eliminating incarceration terms for low level drug and property offending, expanding rehabilitative programming, and reducing sentencing enhancements. While these 'front door' policies were commonly adopted, many correctional agencies sought 'back door' policy changes, often

reducing terms of incarceration by offering early release incentives for those willing to participate in programming and demonstrating a lack of serious and violent misconduct while incarcerated. For example, in 2018 the First Step Act (FSA) was enacted and provided 'early release time credits' to those in federal prisons deemed to be a lower risk for reoffending upon return to the community (Hamilton et al., 2022). Through the development of a risk assessment designed to identify those who have participated in programming and reduced their infraction behavior, FSA researchers created an assessment system to identify and release Low-Risk and non-violent individuals from the federal prison system. Using program participation and infraction free periods as scoring indicators, the FSA incentivizes rehabilitation and preparation for release.

As a result of JRI and other policy initiatives, many states substantially reduced their prison populations, and a five-year reduction in prison populations has been observed nationally (Carson, 2022). However, much of this reduction is a result of a small proportion of states reducing populations substantially, with other states demonstrating small-to-no change. / For example, the state of Nebraska indicates continued growth during this same period, counter to national trends (CJI, 2022). While a prior JRI report was provided to Nebraska in 2015, in 2021 the state of Nebraska contracted with the Criminal Justice Institute (CJI) to further assist in the identification of the most salient contributions to continued crowding. CJI's research largely mirrored the previous JRI efforts, indicating that causes of crowding were largely the result of longer terms of incarceration. With a consistent rate of prison admissions, the longer retention of certain types of convictions (i.e., violent offenses) has slowly reduced available bed space, creating crowding that strained the capacities of nearly all prison facilities.

Assessing Alignment

After completing the process evaluation, it was noted that classification is driven, at least in part, by bed space requirements. Specifically, we examined the research question, 'are there sufficient beds at the recommended security levels for the current population?' To fully answer this question, it was necessary to understand changing trends in admission and release characteristics. Thus, we explored how population intakes and releases changed following the implementation of the NDCS' classification assessment. Importantly, facility and crowding changes occurred during this period and provide an example of resource and policy changes that impact crowding over time.

Next, we examined the aggregate changes in classification levels. A common source of information used to assess the proper placement of individuals within a given security level is an agency's *classification assessment*. Administered at intake and again at routine intervals (i.e., 6 to 12 months), these assessments provide recommendations for the level of security needed to effectively manage an individual and reduce the likelihood of serious and violent misconduct. It is perceived that individuals may increase their risk, and recommended classification level, if they commit or were assessed to have a greater threat of misconduct. However, it is anticipated that over time, individuals will reduce their assessed risk, earning promotions to lower security level facilities. From an agency perspective, if crowding prevents an individual from being housed in their assessed security level, this indicates an *imbalance of housing resources*.

However, beyond crowding, there are other rationales for housing an individual outside of their assessed security level. NDCS staff and administration indicated areas of restricted flow, where policy and crowding conflict to create system bottlenecks. Specifically, community reentry is a difficult process for many individuals to navigate without some level of gradual lessening of supervision. For example, studies show that a gradual reduction in security restrictions, and slowly increasing an individual's freedoms, provides for a greater likelihood of successful transition, as compared to releasing an individual from higher security facilities (Mears & Cochran, 2014; La Vigne et al., 2008). Thus, NDCS attempts to prioritize individuals with shorter TRD for minimum and community-level beds to allow individuals to be released from less restrictive housing.

Further, programming provision and timing are also a concern. Specifically, for those individuals identified to need substance abuse, violence prevention, criminal thinking, and sex offender treatment, limited slots are often reserved for those nearing their TRD. The rationale for this policy is a desire to have individuals complete important treatment just prior to advancing to work release and/or reentry, where programs' rehabilitative effects are maximized. While there is limited evidence of this program sequencing method's effectiveness, a consequence is a backlog of individuals awaiting programming (Duwe, 2018). Further, recent evidence points to the issues of long wait periods and idleness, a concept termed 'warehousing', which results in greater rates of serious and violent misconduct in prison and heightened levels of recidivism upon release (Duwe, 2018; Duwe & Clark, 2017).

Finally, safety restrictions not only identified via classification assessments are a consideration. In particular, individuals that are a threat to be victimized (e.g., sex offenders, former law enforcement, rival gang members or former criminal associates) may require protective management (PM). Further, those individuals committing violence and/or serious misconduct are housed in controlled movement facilities. Finally, state statutes and prison policy can interfere with classification guidelines, where offense types (e.g., sex, murder) and detainers (e.g., ICE) may restrict movements between certain facilities. Understandably, these housing placement decisions may differ from an individual's recommended security level. However, unlike the previous examples, restricting promotion based on security provisions represents a bottleneck that contributes to safety and crowding.

Given issues of crowding, NCJR sought to investigate potential sources of bottlenecks for promotion. It was first necessary to examine population trends following the implementation of the classification assessment. Next, we describe its development and ability to effectively predict and classify individuals appropriately. When functioning correctly, the changing resource needs of the prison system can be examined by assessing the proportion that are aligned/misaligned with their recommended security level; where individuals were identified to be housed at a higher level than recommended are deemed 'overclassified', while those housed at a lower than recommended security level, are identified as 'under-classified'.

NDCS Classification Development

Since the 1970s, classification tools have been used to standardize incarcerated individuals' assignment to housing locations within a prison system. Using items that assess an

individual's criminal convictions, prior incarcerations and escapes, detainers, and history of prison misconduct, these tools crate a risk ranking that attempt to identify the safest location to house an individual while incarcerated. As a result of the nation's focus on transparency, standardization, and rehabilitation, classification tools gained popularity and their benefits to correctional systems have recently been highlighted by the National Institute of Corrections (NIC) (Austin & Hardyman, 2021).

While classification assessments attempt to provide housing placement guidelines for the purposes of individual management and safety, at their core these tools predict misconduct. In this way, classification tools can help describe the overall risk of the population for the likelihood of disruptive and dangerous behaviors. When properly tuned to misconduct risk, as well as facility resources, classification recommendations place people in the right level of security to match their risk of infraction behavior. As commonly outlined by the Risk-Need-Responsibility (RNR) model (see Bonta & Andrews, 2016), when the infraction probability of a population is not accounted for, a greater risk to safety and prison management are more likely when lower risk individuals are housed with those of a higher violence and serious infraction risk. Thus, classification tools standardized infraction risk, to house individuals of similar levels together.

Given their utility, when studies at an aggregate level examine the proportion recommended at each risk level, the classification tool acts as a *barometer for system risk*. As mentioned, overclassified individuals may indicate the system's inability to promote due to bottlenecks restricting transfers to lower custody levels. By contrast, a greater proportion of individuals classified as maximum or medium, but held at lower levels of security, may indicate a need for greater housing need for higher custody levels. Essentially, identifying a greater, and growing rate of under-classified individuals demonstrates a need to create more resources at higher custody levels (i.e., maximum) and a greater rate of overclassified individuals would indicate a corresponding need at lower custody levels (i.e., community).

Further, when classification recommendations are misaligned for extended periods, population changes may go unnoticed, obscuring a clear understanding of prison system resource needs. The ability to track the proportion aligned, and misaligned over time, is key to understanding resources needed. Specifically, by evaluating how these trends have changed during Nebraska's recent prison growth, we will identify the populations that are contributing to crowding.

NDCS Classification Tool Development

In January of 2017, NDCS implemented the new IRA classification tool. This tool was updated from a prior tool created by Patricia Hardyman in 2005, which was identified to be an *insufficient assessment* to predict prison misconduct (Hamilton & Kigerl, 2016). Specifically, NDCS research staff identified inadequacies of the Hardyman classification tool, resulting in overrides of the tool's recommended security level for roughly 60% of the assessments. This rate of overrides means that the recommendations of the tool only aligned with an individual's approved housing security level 40% of the time. Thus, it was suggested that a new tool, more in tune with the current NDCS practices, was needed.

In 2016, NDCS partnered with Hamilton, Kigerl, and NCJR in the development of a new classification tool. This tool was developed through analysis of individual records from 1991 to 2015, incorporating new items and identifying a better prediction of misconduct than the Hardyman tool it was designed to replace. Specifically, many of the new items included were 'override' indicators used to alter the recommendation of the previous tool. Further, it was thought that by using recent data, classification levels would be 'sized' more accurately, thereby better identifying the proportion of individuals at each level where an adequate number of beds are available. Specifically, through the development of a more predictive scale, the tool establishes the proportion to be assigned at each of the four security levels (Community, Minimum, Medium, & Maximum) based on the beds currently available at each level in the NDCS system.

The function and development of a classification tools

With this said, it is important to describe how classification assessments are created and what they are outlined to achieve. Classification tools, and risk assessment tools generally, use a set of items (e.g., number of prior incarcerations, escape attempts, age) to predict future violent, serious, and other forms of misconduct while incarcerated. Each item has a set of scored values associated with item responses. Individuals receive a score for each item response and scores are then summed up to create a composite score. Individual's scores range on a continuum, where larger scores indicate greater risk for misconduct. Thresholds, or cut points, are then set based on the development sample, identifying the proportion of subjects that are higher and/or lower risk. As a hypothetical example, if a tool's scores range from -100 to 100, and a score of 50 or higher is identified to be 'High-Risk', those scoring below -50 are 'Low-Risk', and those scoring in between are 'Moderate-Risk'.

In the case of classification tools, cut points identify risk level categories (RLCs) that translate to security level classification recommendations. For instance, the current NDCS classification tool identifies that newly admitted females with a serious misconduct risk score greater than 50 points are recommended for housing in a 'medium security' unit and those with violent misconduct scores greater than 160 points are recommended for 'maximum security' housing. However, the cut points are not typically set using a rigorous or empirically derived formula. Meaning that, while all females scoring greater than 160 are more likely to commit violent misconduct than those scoring less than 160, there is no scientific rationale to set the category cut point at 159, 161, or even 100. Commonly, classification assessment cut points are set based on the bed space availability, where the estimated proportion of females scoring greater than 160 is relatively equal to the number of maximum custody beds available.

Therefore, a classification tool identifies the population that is the highest risk for violence but the tool itself *makes no claims that an individual requires maximum custody security requirements*. This is an important concept that is not typically known or conveyed. Essentially, classification tools can identify who is the highest (or lowest) risk but cannot specify the level of security that is most effective with any given range of scores. Therefore, cut points are typical set to size the highest risk population to fit with the number of available maximum-security beds, the next highest for medium security, and so forth, which was the rational used to

size the current IRA tool (see Hamilton & Kigerl, 2016). Therefore, we acknowledge that risk of infraction behavior while important, is not the only consideration of classification staff.

Misaligned cut points

As mentioned, if classification cut points are not sized appropriately, too many (or too few) individuals will be assessed to be high risk and recommended for maximum custody, in which case, the assessment scoring may function as intended, properly predicting those that commit serious and violent infractions. Yet, when risk level category (RLC) proportions are not aligned with bed space capacities at each security level, these misalignments reduce confidence in assessment results. If this issue persists, classification tool recommendations are more likely to be overridden, greatly decreasing its functional use in guiding housing decisions.

In 2017 the current cut points used to create the classification RLC were set based on 25 years of retrospective data, estimating the proportion of individuals that would likely score into each security level category (Hamilton & Kigerl, 2016). However, it is common that, following implementation 1) staff adjust their scoring procedures, 2) item responses are not observed at the same frequency as those used to develop the assessment, and/or 3) the population changes (i.e., greater, or lesser risk) as compared to the developmental sample.

Two of these issues, (1) staff adjusting scoring procedures and (2) misaligned response proportions, are common and impact an assessment's cut point functionality. If caught early, adjustments to cut points can be made by the assessment developer to provide a better alignment to the bed space allotments across the system's security levels. Typically, a one-time adjustment will solve these types of misalignment issues.

However, if classification issues are due to (3) population changes, where a differing proportion of RLCs change over time, misalignment issues will appear more slowly and represent a source of crowding. For example, if a new statute altered misdemeanor drug possession to a felony, NDCS may observe an influx of lower-risk individuals. Conversely, if the sentence for felony manslaughter was extended by five years, NDCS would observe a greater proportion of higher-risk individuals retained in custody.

Crowding and Classification

Prison crowding occurs when the average daily population (ADP) exceeds that of a unit's designed capacity. The 'design capacity' (DC) of a facility is the original capacity the facility was intended to serve, when core infrastructure and bedspace were aligned by original design intent (Dewberry, 2023). It is important to note that when NDCS adds beds beyond the original design capacity, when individuals are placed in these beds the facility is considered 'crowded' or beyond the DC. When crowding occurs, it is important to understand how it is specifically impacting the system, as remedies will vary based on the types of individuals being added to the system. The results of the classification tool can act as a barometer, where an increasing proportion of higher risk individuals may indicate a need to create greater maximum-security bed space, while a greater proportion of lower risk individuals may indicate a greater need for community beds and/or alternatives to incarceration.

Further, classification does not contain a singular focus on safety and preventing misconduct. As mentioned, individuals are placed within facilities primarily to retain security/safety but there are additional considerations such as a need for protective management, the unique location of programming, mission specific housing, restrictive housing, and a NDCS policy to release individuals from the least restrictive custody level (i.e., Minimum or Community custody). While beyond the scope of this study, if security needs are primary, then programming and other mission specific housing requirements can be moved to different facilities to provide a more efficient use of resources. Therefore, while many individuals may be misaligned for reasons other than security, NDCS can adapt to these types of misalignments more easily if issues of crowding were reduced.

Classification Alignment Evaluation

Prison population growth and crowding in Nebraska has been a consistent and lingering issue for several decades. Thus, resource requirements of the prison system have become a top priority, with several reports detailing NDCS possessing fewer beds than needed for the current ADP (Dewberry, 2023). As indicated in the process evaluation, this situation has a disproportionate impact on the system, with intake facilities housing the greatest crowding burden. Serving as a gate keeper for individual transfers to their initial facility, classification staff reported holding individuals in DEC/RTC1 until a bed at another facility became available. However, given the extent of the crowding problem, there is concern that individuals are not able to promote and progress to lower security levels on time, creating unnecessary bottlenecks, where individuals are held at a security level, but their assessed risk classification would dictate a different security level.

As part of our examination, NDCS requested NCJR examine which security levels represent the greatest source of crowding. Given their outlined importance, it was first necessary to assess the functionality of the current classification tool (the IRA) and the proportions identified at each security level. Next, we sought to identify if individuals were residing in locations that were higher (or lower) than their recommended security level. For those individuals misaligned with recommended security levels, we sought to identify the primary reasons for overrides to a different security level (i.e., protective management, programming, bed space).

Data

To examine this deliverable, two data sets were assembled. *First,* data were structured to assess individuals longitudinally. This data set was built to examine the functionality of the classification tool and was structured similar to that of the IRA development sample. However, the updated IRA was implemented in 2017 and thus we began our evaluation using only individuals assessed post-implementation. For this data structure, each case represented a movement, identifying multiple cases/movements per individual. The *second* data structure was used to assess misalignment between the classification risk level category (RLC) and an individual's security level placement within the NDCS system. To assess change over time, a cross-sectional data structure was created, identifying each supervised individual's location,

RLC, and a selected set of indicators required to assess misalignment rationale and potential sources of crowding.

Longitudinal Structure

The longitudinal dataset was comprised of any movement within or between an NDCS facility. Each movement had a facility code and a bed unit. To identify the custody level of each assigned bed unit, all unique facility/bed pairs were calculated and manually coded according to their given custody designation (see, Master Plan, 2023). Next, the subsequent movement was identified if it met certain criteria. Specifically, if an individual was moved either to a different facility, or if they moved within the same facility but to a housing unit with a different custody designation than that of their current location (i.e., medium to low).

The data structure was then appended, where male/female and initial/reclassification classification assessments were merged into the data structure. Both the original and adjusted cut points (to be described) were implemented to compute RLCs. The assessment 'test dates' were also included to track the duration of time between initial and reclassification assessments. Finally, infraction data was incorporated, identifying if an individual had infracted in any of four study misconduct outcomes – Class 1 Violent, Class 1 Non-Violent (Major), Class 2 (Serious), Class 3 Non-Serious. Only misconduct with a 'guilty' disposition was included and coded dichotomously (0/1) if occurring between the assessment and reclassifications (or discharge). It is important to note that individuals with three or more years to their TRD are reclassified every twelve months, while those with less than four years are assessed every six months. Thus, to account for varying lengths of exposure time to commit a misconduct infraction, days between classification assessments were computed.

Cross-Sectional Dataset

Next, we sought to examine the amount, location, and impact of classification misalignment on crowding. To examine changes over time, we created a data set with a cross-sectional structure. This structure was designed to identify the housing locations of individuals within the NDCS system on the first of each month. The sample frame was restricted to a selection of months following the 2017 classification assessment implementation. In particular, while the tool was implemented in January of 2017, the 'ramp-up' to assess everyone on the new tool was nearly complete by March of 2017. Also, a change in the classification procedures was observed in June of 2021. To track individuals consistently, the cross-sectional data set was restricted to the 52 months between March 2017 and June 2021.

Similar to the longitudinal data structure, the cross-sectional dataset identified each individual's facility-housing unit security level, the scores, and RLC from their most recent classification assessment. We note that some locations are not applicable to the study design. For instance, individuals may go to the hospital, court, or have a temporary transfer listed. In these instances, we code the first eligible housing location, in the days following the first of the month. Lastly, if an individual was not incarcerated at all during a given month (i.e., were discharged) they were excluded from further study months.

Additional indicators include an individual's TRD (at admission & days remaining in each study month), initial or reclassification assessments, admission type (i.e., initial parole violator, other) indicator of true or mixed custody (more than one security level in same housing unit), age, gender (male/female), race (white/non-white), current offense (i.e., violent, property, drug), and specialized housing unit type (i.e. PM, Restricted housing unit [RHU], Long Term Unit [LMU], Residential Treatment, Mission Specific). Collectively, this data structure created a time series to analyze trends over time, identifying potential 'interruptions' in observed trends based on policy or system changes that occurred in a particular month during the study period.

Classification Alignment Measures

Several measures were provided for the study analyses and coded specifically to the study question proposed. Each measure included in the analyses is described in the section below. Where indicated, adjustments to the coding structure are detailed.

IRA Classification Score

Each classification item was scored using the 12 developed classification scoring models (see Hamilton & Kigerl, 2016). Specifically, models were developed to predict three misconduct outcomes – violent, serious, and non-serious. Each of these three models were completed for 'initial' or assessments completed at prison admission and another set for 'reclassification', routinely completed every 6- to 12-months following admission, depending on an individual's time to release. Further, each of these models was completed for separate male and female samples for 12 in total.

Risk Level Categories (RLCs)

Next, the pre-established model cut points (see Hamilton & Kigerl, 2016) were used to create RLCs. Specifically, those exceeding the violent model threshold are identified as 'High-Violent' and recommended for maximum custody (1X). Individuals exceeding the serious model threshold are identified as 'High-Serious' and recommended for medium custody (2X). Those exceeding the non-serious model are identified as 'high-nonserious' and were recommended for minimum custody (3A). Finally, those with scores that do not exceed any of the three thresholds are identified as 'low-risk' and recommended for the Work Ethic Camp (WEC – 3B) or community custody (4A/4B).

As indicated, it is common, following implementation, for RLC population proportions to be misaligned with the initial estimates. Therefore, overrides may be the result of classification staff attempting to adjust for a tool not properly normed to the population. To ensure that override comparisons track potential system changes over time, using the longitudinal data set, we created *Adjusted RLCs* to reflect the initial/intended population proportions.

Alignment

Following the creation of both the initial and adjusted RLCs we outlined security matches and misalignments using the cross-sectional data set. Specifically, we assessed if an individual's

RLC '*matches'* the security level of their housing unit location on the first of each study month. Misalignment was categorized in two ways, 1) those identified to be housed at a security level lower than their RLC recommended level (e.g., housed in Community but RLC classified as Maximum) are identified as *'under-classified'*, while 2) those housed at a higher level than their RLC recommend level (e.g., housed in Maximum but RLC classified as Medium) are identified as *'over-classified'*.

Specialized Unit

As indicated, not all housing unit placements are used to accommodate risk levels. Specifically, specialized units are used to protect vulnerable populations and provide mission specific programming. We categorized these specialized units as those that provide programming – residential substance abuse, mental health, sex offender, and 'other' – and those used for management – protective management and residential/long-term housing. Analyses will track the use of these housing unit types over the study period.

Demographics

Age was computed by subtracting the study month from the individual's date of birth. For ease of interpretation, age was grouped in to four categories – 18-24, 25-34, 35-44, and 45 years or older. Gender was measured dichotomously male/female (0/1). Race was grouped into four categories, White, Black, Hispanic, Other, which was further dichotomized for ease of interpretation as White/Non-White (1/0).

Current Offense

An important aspect of crowding and classification is identifying the trends of newly admitted and those retained. Using measures collected at admission for the Static Risk Offender Needs Guide – Revised (STRONG-R) we dichotomously coded individual's current offense types – violent, property, and drug. Current offense types were tracked for NDCS supervised individuals monthly.

Facility

In addition to identifying security level via facility-housing unit locations, the facility in which an individual was housed is used to track changes over time. NDCS operates nine prison facilities – 1) Nebraska State Penitentiary (NSP), 2) Reception and Treatment Center (RTC), 3) Community Correctional Center–Lincoln (CCL), 4) Omaha Correctional Center (OCC), 5) Community Corrections Center – Omaha (CCO), 6) Nebraska Correctional Youth Facility (NCY), 7) Tecumseh State Correctional Institution (TSCI), 8) Work Ethic Camp (WEC), and the 9) Nebraska Correctional Center for Women (NCCW). We note that RTC was recently changed from the Diagnostic and Evaluation Center (DEC), where parts of LCC and DEC were combined to create the new RTC facility. In this report we will separate our presentation of findings when discussing DEC/RTC1 and LCC/RTC2 portions as the combined location was not established during the study period. Each facility is coded separately to track population trends over the study period.

Mixed vs. True Custody

Related to Deliverable 2, we further examined risk alignment trends via facility-housing unit locations. Specifically, we identified if a housing unit was comprised of only one security level – True Custody – or was comprised of a combination of more than one custody level type (i.e., Maximum/Medium). Each type was coded and combined into a single metric of True (1) or Mixed (0) custody to be tracked across the study period, and a breakdown of Mixed and True Custody types is also provided.

Short Timers

Related to Deliverable 3, we examined the individual's TRD. Based on process evaluation findings, NDCS staff indicated issues with classification promotions resulting from individuals admitted with less than a year to their TRD. We coded time-to-release in two ways. The first is time to release at a given study month, which is allowed to change dynamically for individuals over the course of the study period. We also assess an individual's time to release via their TRD at admission, which is static across the study period. This static version of the measure is used to examine changing trends in 'short timers', or those that are admitted with less than a year to their TRD.

Overrides

One element of the current classification tool is the ability to track overrides. Briefly, overrides are used to change an individual's scored RLC to meet with agency needs. Primary override reasons are indicated as items of the classification tool. We further grouped these override reasons into three categories, those pertaining to 'Detainers-Escapes', 'Duration to TRD', and 'other', where the latter category represents overrides that are not able to be categorized via the prior two groupings.

Classification Alignment Analysis Plan

To complete the Deliverable 1 analyses, we computed risk scores using the item responses and item weights (see Hamilton & Kigerl, 2016) and the longitudinal data set. Next, we use Receiver Operating Characteristics (ROC) analyses to compute the predictive validity statistic Area Under the Curve (AUC) statistic. Due to the varying durations between classification assessments, we used survival analyses models to compute AUCs. We note that AUC values range from 0.5 to 1.0 and represent effect size ranges, where values a ranging from 0.50 to 0.54 are negligible, 0.55 to 0.63 are small, 0.64 to 0.70 are moderate, and 0.71 or greater are strong. In addition, scatter plots were computed to provide a visual understanding of risk score performance in predicting the probability of violent, serious, and non-serious misconduct. We then identified the proportions of each RLC using the original cut points (see Hamilton & Kigerl, 2016). After an examination of RLC proportions, we then updated thresholds using the estimated proportions (see Hamilton & Kigerl, 2016).

Using the cross-sectional data set, we then examined NDCS trends across time. Line charts were created to identify time-series trends. Using the described measures, we sought to

identify population changes contributing to restrictions in individual's promotion to lower security levels and the impacts of crowding. Further, interrupted time series analyses (ITSA) were computed to assess the significance of trends contributing increases and decreases in monthly ADP.

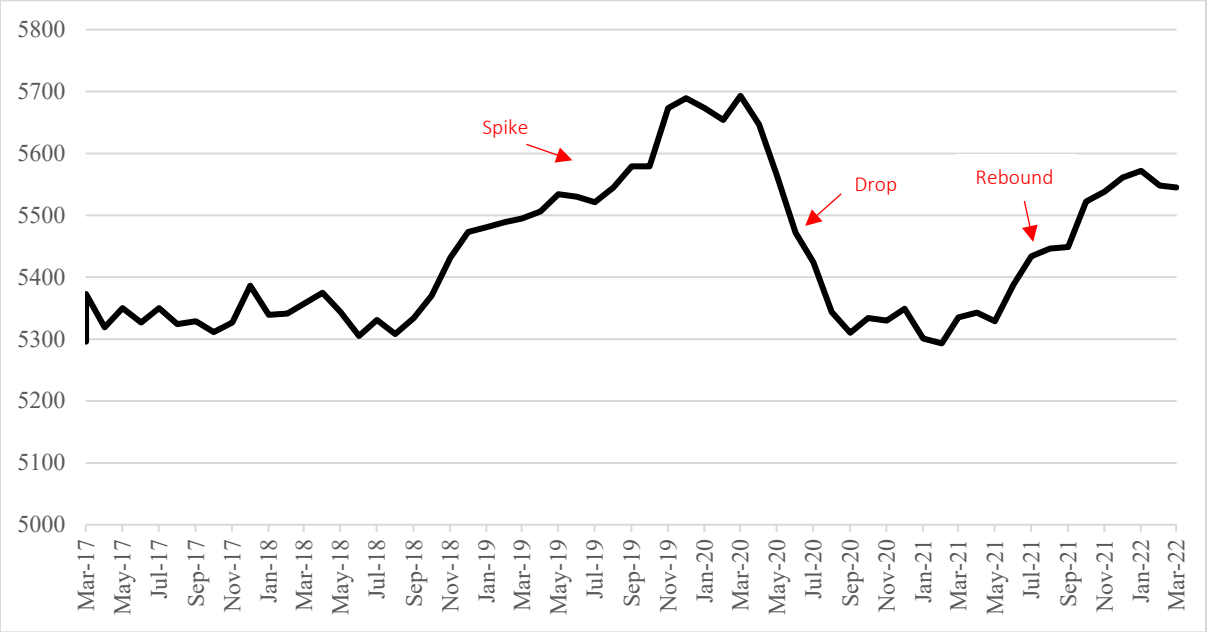
DELIVERABLE 1 – Classification Alignment Results

In this section, we provide findings from our analyses of Deliverable 1. First, we describe a recent NDCS population increase. Next, the classification risk assessment is evaluated and described as a potential *barometer for facility resource needs*. Adjustments are made to the classification risk levels to create proportions that reflect initial estimates. These adjusted RLCs are then used to identify alignment issues, tracking multiple population patterns across a near five-year study period.

The ADP 'Spike'

First, we examined time-series trends of the NDCS combined average daily population (ADP) following the implementation of the IRA assessment in early 2017 through March of 2022. Figure 3 provides a line chart of the ADP, plotted monthly over the study period. What is notable is the 7% growth observed beginning in September of 2018 through March of 2020, when ADP peaked at nearly 5,700. In the 19 months prior to this noted trend, the ADP average was just over 5,300, following the 'spike', we see a steep drop, and then a return to 5,300 ADP in March of 2020. As indicated in the Justice Reinvestment Working Group Report (2022) the drop in ADP was due to changes in adjudication processes surrounding the COVID-19 epidemic that reduced the number of new NDCS intakes following March of 2020. Yet, the ADP has nearly returned to pre-COVID levels (5,545). Thus, while we can explain the decrease following March 2020, the increase leading to the spike in ADP requires greater explanation.

Figure 3. NDCS ADP by Month



To analyze the longitudinal effects of the CCL prison expansion, we employed a quasi-experimental design using a ITSA regression analysis (Berry & Lewis-Beck, 1986; Fox, 2016; Ostrom, 1990). An ITSA regression is used to assess the significance of trend/change associated with the introduction of an event (Ramirez & Crano, 2003). The ITSA consists of three parts: (1) identification of autocorrelation, (2) model specification, and (3) regression modeling. Model fit statistics are used to assess the structure of the event on the time series and uses the Q, Akaike information criterion (AIC), and Bayesian information criterion (BIC) to assess model fit. An ITSA is estimated in a two-stage procedure where an auto-regressive moving average (ARIMA) model is computed to estimate the underlying structure of the trend. Model fit of the ARMIA are determined by significance of the autocorrelation and moving average specifications and the overall model fit is indicated with a non-significant Q statistic. The findings from the ARIMA are then used as specifications for the ITSA regression model. When estimating the ITSA regression model, the month of an event starting point, or 'step', is included (intercept), identifying the immediate impact of the trend starting point, and a 'counter' (slope) identifies the changes in the trend over time. In addition, the average IRA score and time to release date (TRD) (measured in days) of the monthly NDCS population were included as control measures.

Our ARIMA model findings provided the underlying data structure (1,0,1). The ITSA regression identified a significant increase in the monthly ADP following the CLL expansion, with an immediate increase of 11 people added to the ADP, with an additional 6 people added each month. This trend continued for 19 months until the COVID-19 event in March of 2019, which created an immediate reduction of 101 people in the initial month, and a roughly 19-person reduction for the next 10 months. Following the COVID-19 drop there are 9 months where the trend returns to baseline levels before rebounding to near pre-COVID-19 levels, adding an additional 3 persons per month though the end of the study period (March 2022). We

note that IRA scores and TRDs decrease, on average, across the study period as well. Time series model findings are provided in Table 3.

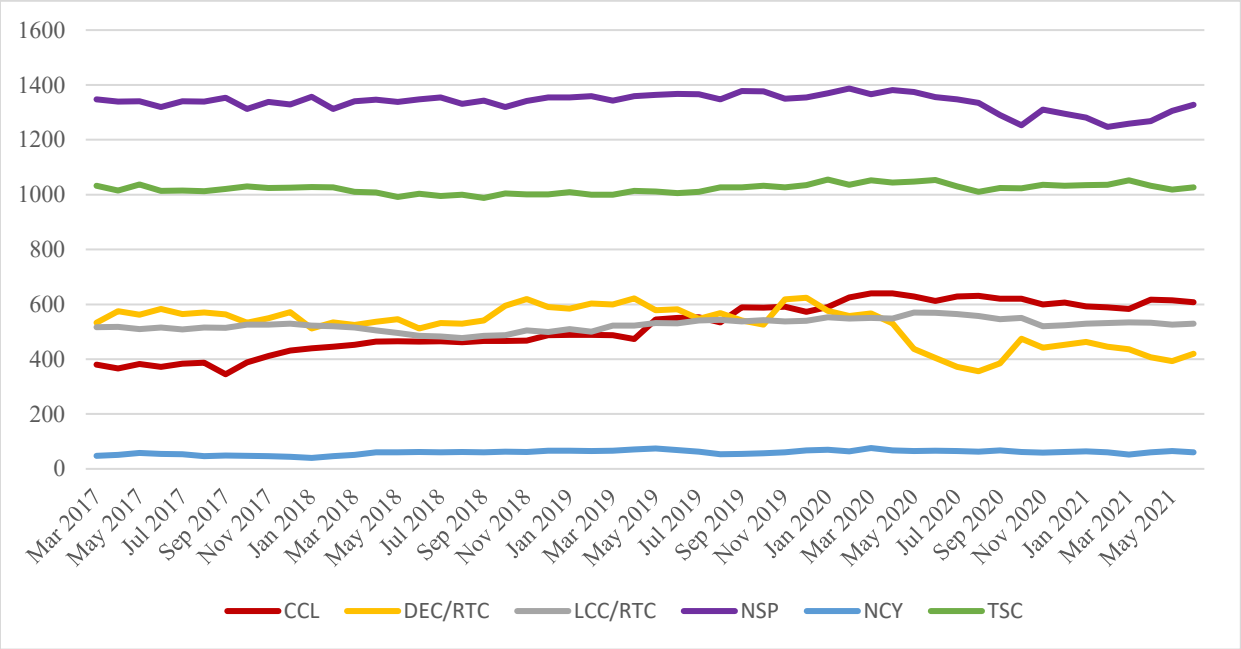
Table 3. Time Series Model Parameters

ARIMA Model	**Specifications**			**Est.(SE)**	**Q (df)**
ADP (Monthly)	(1,0,1) (0,0,0)		AR 1 = MA 1 =	0.928 (.044)*** 0.306 (.011)***	20.436 (10)
ITSA Regression	**Coeff (SE)**	**t-value**	**BIC**	**AIC**	**Q (df)**
Intercept	5270.36 (24.6)	5.94***	617.66	589.80	14.86(10)
Time	6.77 (1.1)	0.38***			
Expansion Step	11.13 (29.0)	3.51***			
Expansion Trend	6.01 (2.2)	4.76***			
COVID Step	-101.26 (33.1)	-3.26**			
COVID Trend	-19.61(6.2)	-2.69**			
Rebound Step	-288.82 (55.5)	-3.54***			
Rebound Trend	13.8 (4.48)	3.08**			
Ave. IRA	-24.33 (13.8)	-1.75.			
Ave. TRD (days)	-1.03 (0.1)	-9.21***			

.p<.1, **p<.01, ***p<.001

To further examine this trend, we examined six of the nine NDCS facilities that experienced growth during this same period. We note that the time series was reduced to end in June of 2021 for the remaining figures as there were changes to method NDCS calculated the IRA's RLC after that date. Including months after June of 2021 demonstrate inconsistencies in the calculated effects of additional trends (i.e., over/under-classifications). Thus, we truncated the time series to provide a more consistent assessment of the additional trend analyses. Figure 4 provides a line chart of the six male facilities. While only slight increases (20 to 40 ADP) were observed for five of the six facilities, beginning in September of 2017, an expansion of CCL's allowed for ADP to increase by over 200. We also note that all facilities show reductions following March 2020, with a substantial drop in DEC/RTC1's ADP, due to intake reductions following the start of the COVID-19 epidemic.

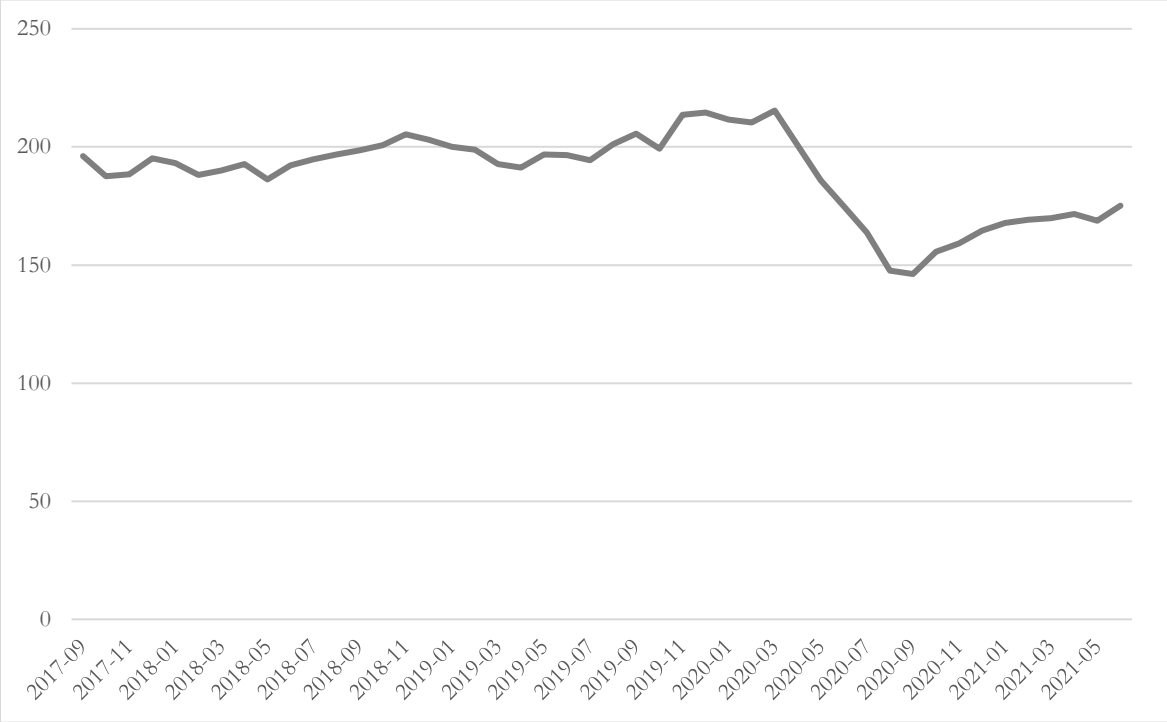
Figure 4. Facility with ADP Growth by Month



In 2019 a new 160-bed unit was constructed for females along with additional non-housing space, allowing males to back-fill the now unused housing unit. These modifications added over 160 beds to the design, and 200 individuals to the core capacity. Further, while an additional ADP increase of 165 individuals was observed for the other five noted facilities, only two facilities (NCW & OCC) reduced their ADP during this period by a collective 34 people. Therefore, we observe nearly 400 individuals added to the ADP during the noted 'spike. Yet, if growth in CCL prevented crowding, we would expect a corresponding reduction in ADP of higher security facilities and, in turn, a reduction in NDCS crowding. However, the remaining facilities collectively added ADP during this period, indicating either an increase in prison admissions or a decrease in releases.

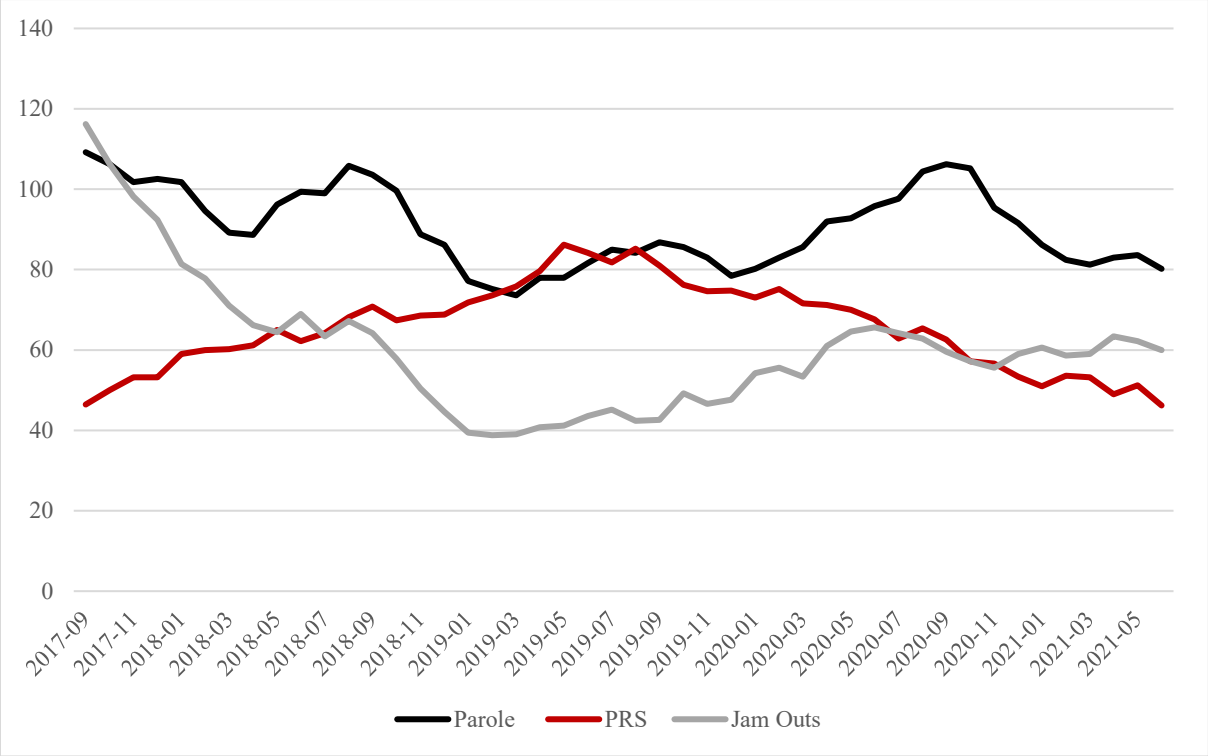
Next, we attempted to examine the sources of crowding and if it is a result of changes in intakes or releases. Figure 5 provides a line chart of NDCS admissions by month. Notably, this trend includes only new intakes, not returns from Parole or other sources. As illustrated, new admissions remain consistent at roughly 200 per month through March of 2020. Following March 2020 there is a sharp decline, again related to COVID-19 policies and practices, before rebounding slightly though the remainder of the study period. Despite a slight five-month increase in September of 2020 (roughly 15 people), these findings indicate that the Spike in ADP growth (see Figure 3) is not a result of new admissions.

Figure 5. NDCS Initial Admissions by Month



When examining releases from NDCS facilities, individuals typically return via one of three methods. They 1) complete their term of incarceration ('jam out'), 2) release to Post-Release Supervision (PRS), or 3) Parole release. As part of the rationale for LB605, PRS was created to reduce the use of jam outs. As indicated in Figure 6, there is an ADP reduction in jam outs that corresponds to an increase in PRS releases, indicating the anticipated relationship between these two release types. However, parole releases take a different trend.

Figure 6. NDCS Releases by Month

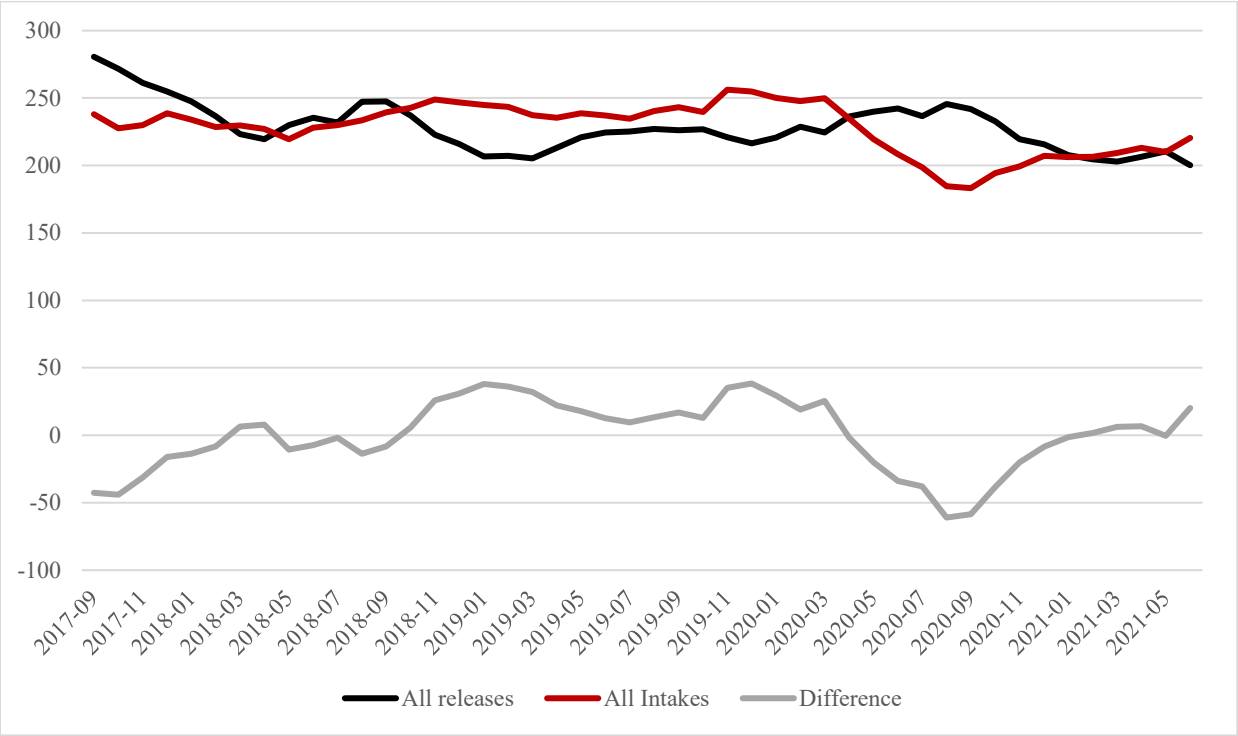


To offer a closer examination of parole releases Figure 7 provides a line chart of those released via parole from NDCS facilities. Prior to September of 2018, on average, 116 individuals were paroled each month. During the 'spike months' of August 2018 through March 2020, the monthly releases dropped to 80 people, on average. With an average of 21 fewer released over the course of 19 months, this amounts to roughly 400 additional individuals retained and included in the ADP.

Figure 7. Parole Releases from NDCS

Next, we examine all releases (i.e., parole, PRS, jam outs, & other releases), intakes (i.e., new admissions, parole revocations, PRS returns, & other intakes), and the monthly running difference between releases and intakes illustrated in Figure 8. As illustrated, during the ADP Spike releases decreased, largely due to a reduction in parole. During this time there was turnover in the parole board, and with limited members, the rate at which parolees could be approved for release was thus reduced. As indicated, during the Spike period (September 2018 through March 2020) the running 'Difference' between releases and intakes indicates roughly 21 individuals were added to the ADP per month, summing to roughly 400 additional individuals during the Spike period.

Figure 8. Releases, Intakes, & Differences by Month



This relatively modest contribution to the APD per month was difficult to detect. Therefore, while CCL added capacity to during this Spike period, resulted in an anticipated reduction in crowding. However, reductions in parole releases contributed to ADP growth and, over time, added to NDCS facility crowding. This crowding was experienced by five additional facilities, that were notably already extended beyond their design capacity. Given the consistent rate of new admits, the additional CCL capacity was quickly reached, and exceeded, during the 19-month Spike period, resulting in the 7% growth in ADP.

Summary of the Spike

The Spike represents a modest, yet substantial increase in ADP. However, the importance of its description should not be overlooked. This small 400-person addition to the ADP is a key

example of how prison expansions only provide a temporary reprieve for crowding. Billed as a method to expand the CCL community facility, many anticipated a reduction in prison crowding as a result. Yet, via a slow and steady reduction in releases, the expansion was quickly filled, and a 'spillage' of crowding expanded to the tune of 20-40 individuals per facility. Furthermore, following a short-term dip as a result of the recent COVID-19 pandemic, the ADP has again risen to peak Spike levels (ADP~5,700). Thus, we provide a small, but important example of the *limited impact of prison expansions*. Furthermore, the impact of crowding is not universal, putting a greater toll on specified and changing NDCS populations. As will be demonstrated, these changing characteristics have a tendency to remain, despite pandemic fluctuations.

Risk Score Prediction

With an understanding of ADP changes that occurred during the period following full implementation of the IRA classification tool (March 2017), we next sought to examine how the NDCS population's risk changed over this study period. As described, we sought to use the risk of misconduct as a *barometer for facility resource needs*. Prior to examining risk trends over time, we first needed to establish the effectiveness of the risk tool and perform any necessary calibrations to the risk level categories (RLCs) to improve functionality.

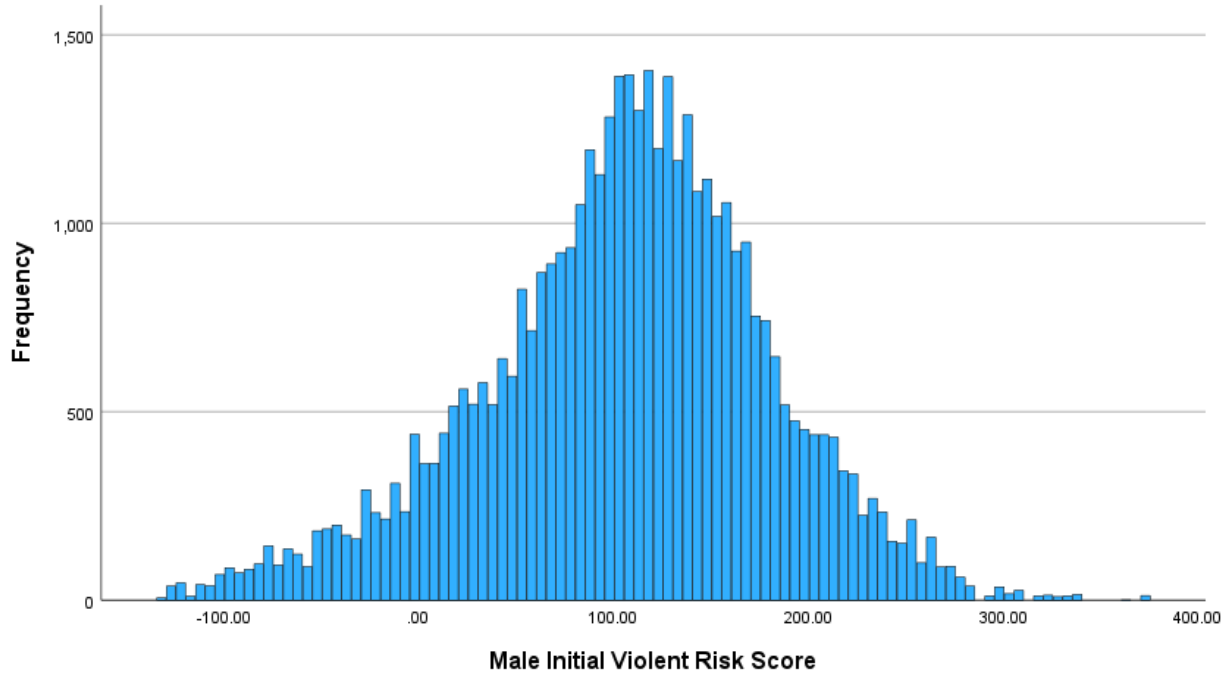
Using the longitudinal data set, which was similar to the IRA development sample, we first assessed the classification tool scoring, predictive validity and RLC proportions. Descriptive statistics for the 12 misconduct risk models are provided in Table 4. Risk scoring continuums vary considerably, ranging from 301 to 906 points. Because each tool is designed for a specific population, stage in the system, and outcome type, each model has a different set of weights where scoring means vary from 90 to 205. Therefore, comparing assessment scores from different models is like 'comparing meters to yards.'

Table 4. Classification Risk Score Descriptives

Model	Range	Minimum	Maximum	Mean(sd.)
Initial				
Male Violent	506	-132	374	100(73)
Male Serious	425	-127	298	90(65)
Male Non-Serious	618	-192	426	127(97)
Female Violent	624	-74	550	115(96)
Female Serious	227	-44	183	39(35)
Female Non-Serious	301	-61	240	52(42)
Reclass				
Male Violent	838	-152	686	173(128)
Male Serious	407	-66	341	106(64)
Male Non-Serious	295	-71	224	47(47)
Female Violent	734	-48	686	174(104)
Female Serious	906	-48	858	205(129)
Female Non-Serious	767	-19	748	172(112)

It should be noted that each of the risk score continuums presents a 'normal' distribution, with the initial male violent model scoring distribution is presented as a visual example in Figure 9. As is observed, the risk scores are normally distributed and indicate a tool that assesses distinctions across a scoring continuum. The visual inspection of the scores indicates a normal distribution, one indicator of a tool's ability to discriminate a wide continuum of risk.

Figure 9. Histogram Male Violent Risk Score

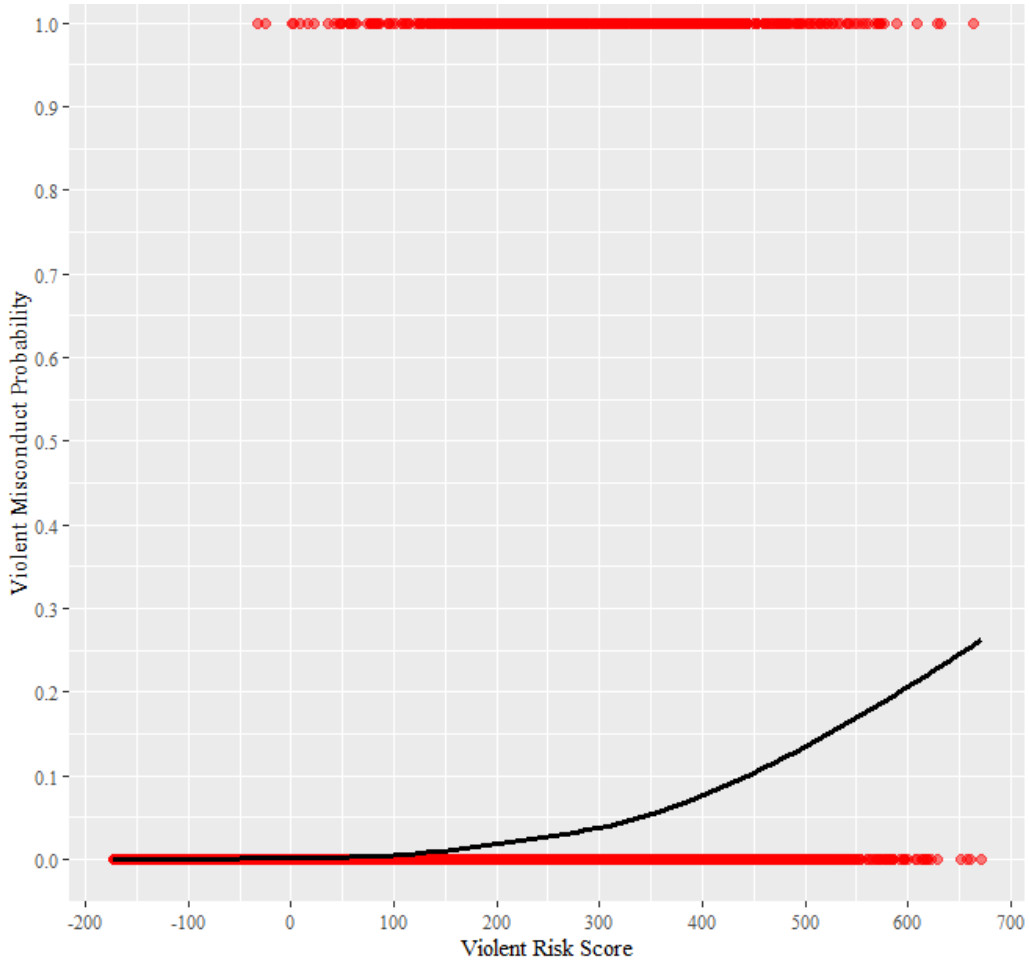


To provide a visual understanding of the prediction, we computed scatterplots of three models (male initial violent, serious, & non-serious[23]). Three scatterplots are provided with a single population fit line, identifying the average risk scores along the horizontal axis in relation to individuals' probability of misconduct on the vertical axis. Ideally, the slope of the fit line increases at a consistent rate.

Figure 10 illustrates the relationship between violent risk scores and the observed probability of committing a Class 1 violent misconduct. As anticipated, the likelihood of an individual committing a violent misconduct is lower than other forms of misconduct, where the predicted probability only exceeds 20% at the extreme end of the risk scale (scores greater than 600). The visual trend of the fit line suggests that the risk score is most efficient in discriminating higher from non-high risk. This interpretation is strengthened when examining the relatively flat slope for scores of 100 or lower.

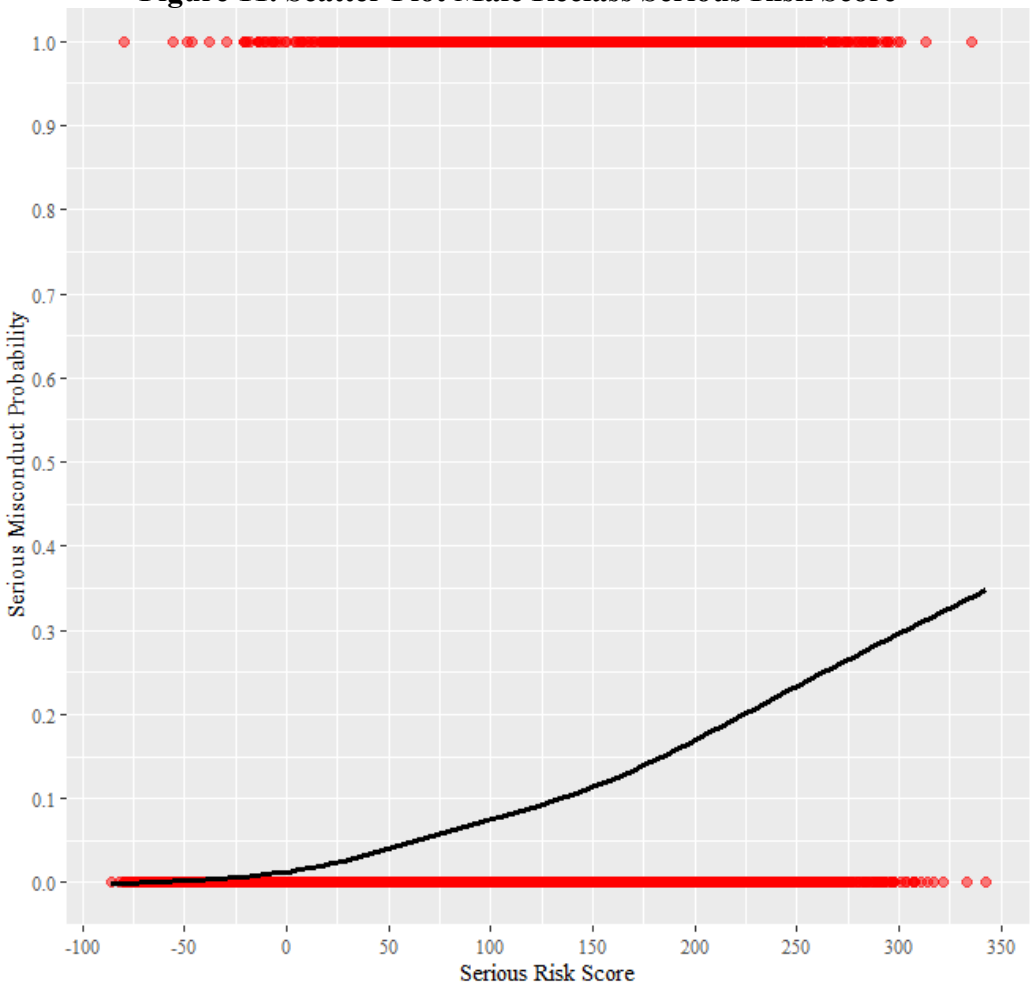
[23] We selected these three models to present as an example, while we note similar prediction pattern for male reclass and female risk models.

Figure 10. Scatter Plot Male Initial Violent Risk Score



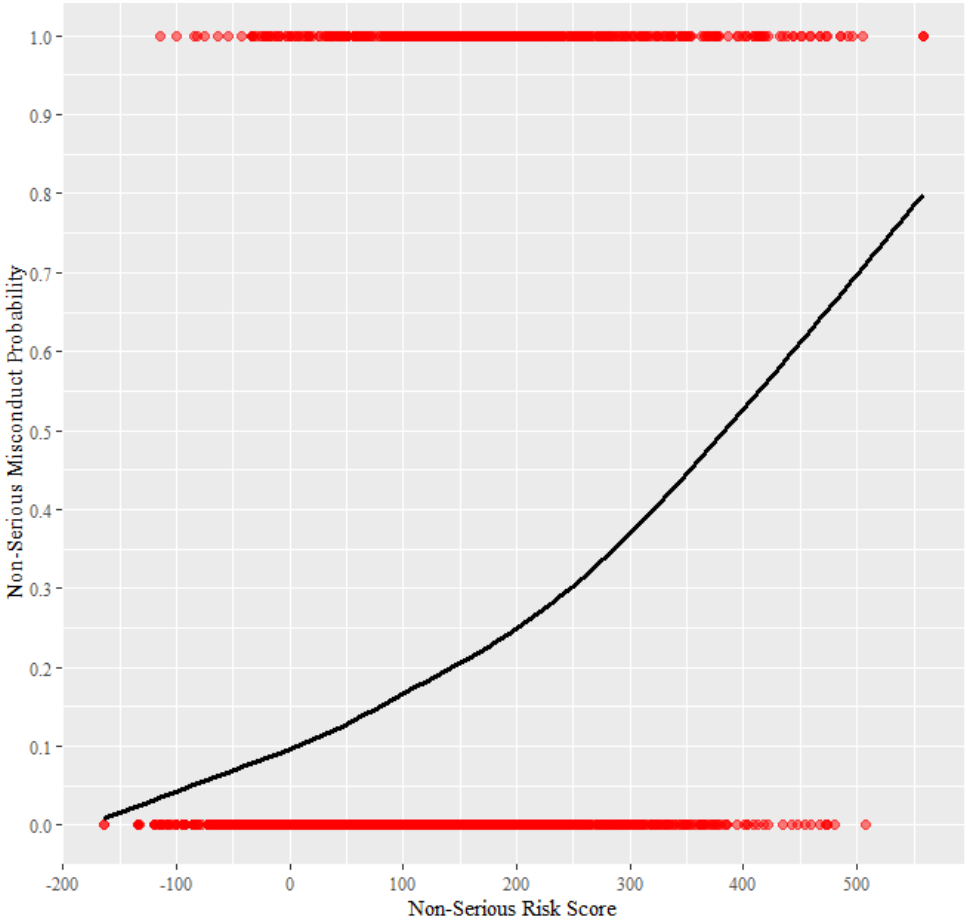
In Figure 11 we present a scatter plot of the risk score predicting serious, non-violent misconduct. Specifically, a flat trend is observed for scores of zero or below. Yet, the slope grows at a consistent rate from zero through the end of the scale. Further, the probability of a serious non-violent outcome is generally low, only exceeding 30% at the high end of the scale (scores exceeding 300).

Figure 11. Scatter Plot Male Reclass Serious Risk Score



Finally, we provide a scatter plot of the non-serious risk score's prediction of non-serious misconduct in Figure 12. This fit line slope trends upward at even the lower levels of the scale, indicating an ability to identify distinctions between high, moderate, and lower risks of misconduct. Like prior findings, non-serious trend presents a lower grade slope for scores of 200 or below, a sharper incline from 200 or greater.

Figure 12. Scatter Plot Female Reclass Non-Serious Risk Score



Overall, the scatterplot findings provide some important indicators of classification risk scores. First, each of the four figures demonstrate a consistent effect, where increasing scores predict a larger probability of each misconduct type. This is a key indicator of a risk score's predictive ability. Further, Figures 12 and 13 indicate that the slope of the fit lines are flat before increasing in the upper end of the scoring distribution. Given that these two risk scores are used to classify high risk, or maximum and medium security placement, the shape of the distribution makes functional sense for the NDCS classification. By contrast, the nonserious risk score, used to classify individuals into minimum security housing units, demonstrates a fit line slope increase at the lower range of the risk score distribution. Regarding the functionality, the non-serious risk score's ability to discriminate risk at lower scores is an important aspect of the tool, providing distinction between individuals to be classified as community versus minimum security.

Next, AUC statistics were computed for each model, which are further broken down by gender and initial/reclassification. Overall, the three risk scores are good predictors of misconduct. As shown in Table 5, AUCs for the combined models score range from moderate-to-strong predictive strength (AUCs = 0.64-0.77). Risk scores are generally stronger predictors of violent and serious misconduct than nonserious and reclassification models presenting better than initial assessments. Further, when compared to the original estimates of predictive performance, violent risk score prediction is slightly stronger, serious models are similar, and nonserious are slightly weaker (see Hamilton & Kigerl, 2016). Finally, the classification risk scores are substantially stronger than the previous tool used prior to 2017, with AUC improvements range from 10-14% when compared to the Hardyman tool.

Table 5. Classification Risk Score AUCs

Model	Hardyman (Pre-2017)	Combined Scores	Initial	Reclass
Violent	0.63	0.77	0.72	0.80
Serious	0.55	0.68	0.66	0.71
Non-Serious	0.54	0.66	0.64	0.67

Overall, the findings indicate that IRA classification risk scores are functioning appropriately and collectively represent good predictors of misconduct risk. As indicated, while there may be other considerations when placing individuals in a specific facility or housing unit (i.e., potential victimization, treatment location, policy restrictions), an individual's risk to commit misconduct is considered paramount.

Therefore, the risk of misconduct (particularly violent & serious), is a key indicator to assess the type of housing needed. For example, if the NDCS population increases risk over time, under-classification will be observed, where higher risk individuals are promoted too early and housed in a facility with lower risk individuals. This would suggest the need to create additional higher (i.e., maximum) security beds. However, if the NDCS population decreases risk over time, over-classification will be observed, where individuals' promotion to a minimum and community custody is delayed. This would be an indication that additional lower (i.e., community) security beds are needed, or greater alternatives to incarceration (i.e., greater good time & community corrections) should be utilized.

Risk Level Categories (RLCs)

As discussed, classification assessment scores are grouped into risk-level categories (RLCs), which are intended to provide recommendations for individual custody levels, such that those identified as High Violent are recommended for Maximum custody, High Serious for Medium custody, High Non-Serious for Minimum custody (3A), and Low Risk for Work Ethic Camp (WEC) and/or Community custody.

As indicated, the classification tool implemented in 2017 provided cut points to establish RLCs with prior population estimates. Yet, the IRA was not assessed following implementation. To assess the classification RLC's ability to act as an indicator of facility needs, we first examined the accuracy of categories compared to their intended target proportions.

Using the established RLC cut points, we compared the current NDCS population proportions to those estimated via the tool developers (see Hamilton & Kigerl, 2016). Using the longitudinal data set, we calculated the proportion of individuals identified as high and low risk using the four assessment types (i.e., initial, reclass, male and female). RLC findings are presented in Table 6. Notably, we observed High Risk categories (i.e., violent, serious, & non-serious) were substantially lower than original estimates for both male initial and reclassification RLCs. For females, greater proportions were observed for five out of the six High Risk classification categories.

These findings are consistent with staff perceptions of the assessment's functionality described in the process evaluation, where staff indicated the classification tool's RLCs as "off" with most males scoring as Low Risk. For males, more than 80% of initial and reclassification assessments score as 'Low-Risk', which would provide a community custody recommendation. *These findings indicate that adjustments to the NDCS assessment cut points were needed to create the intended functionality of the classification tool.* Specifically, based on the IRA technical report, cut point values must be raised in order for the tool to place the designed proportion of individuals in each of the four risk categories.

To account for the observed functionality issues, we adjusted the assessment's RLCs to be in-line with the original estimates (see Hamilton & Kigerl, 2016). The 'Adjusted RLC' proportions are provided in Table 6. To examine classification patterns and changes over time, the 'Adjusted RLCs' are utilized, providing a more accurate barometer of NDCS risk patterns.

Table 6. Classification Risk Level Categories (RLCs)

Model	**RLC %**	**Adjusted RLC %**
Initial		
Male Violent	3	18
Male Serious	1	5
Male Non-Serious	9	12
Male Low	87	65
Female Violent	32	12
Female Serious	40	8
Female Non-Serious	2	14
Female Low	25	66
Reclass		
Male Violent	4	16
Male Serious	10	23
Male Non-Serious	2	21
Male Low	84	40
Female Violent	18	14
Female Serious	40	28
Female Non-Serious	18	11
Female Low	25	47

Classification Tool Findings

Overall, we find that the risk tool developed and implemented by NDCS in 2017 provides an interesting set of findings. First, the tool's risk scores are functioning as anticipated. The tools risk scores demonstrate a wide range of scores that are normally distributed. Further, the predictive findings indicate both violent and serious risk scores are beneficial for predicting higher risk individuals, with the anticipated ability to classify those in need of maximum and medium security placements. Further the non-serious risk score has a noted strength in identifying distinctions between moderate and lower risk individuals, used to classify individuals into minimum security.

Unfortunately, when examining the RLC proportions, the current tool's cut points are not in line with the original estimates (see Hamilton & Kigerl, 2016). In particular, a greater than anticipated proportion of males, and fewer females than anticipated, were identified as low risk. Thus, we adjusted the cut points to fit with the current NDCS population. While further addressed in our recommendations, we advocate that NDCS adopt these updated cut points to improve the classification instrument's functionality.

Finally, to use NDCS misconduct *risk scores as a barometer*, we make use of the adjusted RLCs when examining population changes over time. Meaning that, following cut point adjustments, we use the proportion of individuals within each risk level category to track population changes across time. Monitoring these trends provides findings that indicate growth and need for a particular facility security type.

NDCS Population Trends

With the classification tool identified to be a predictor of misconduct risk, we next sought to examine how risk and other trends vary over time. We examined trends using the cross-sectional data structure over the course of the study period. Given the noted growth and crowding for the NDCS system, we sought to identify the populations and locations most impacted.

Classification-Security Alignment

First, we examined if classification RLCs matched the security level in which an individual was housed. Specifically, we assess the facility and housing unit location for all individuals in an NDCS facility, on the first of each month, from March of 2017 through June of 2021. To compute these analyses, we merged the four classification types (i.e., reclassification, initial, male, and female) to provide one classification RLC. Further, NDCS has many security level assignments, outlining true custody, or only one security level type housed in each unit, versus mixed custody, or more than one security level type housed in each unit. If an individual's classification assessment recommendation aligned with either the level identified via a true or one of the classifications in a mixed custody unit, they were defined as 'matched'. Again, matching calculations were completed twice, once with the original, and again with the adjusted custody levels.

Descriptive statistics for classification recommendation, assigned custody level, and custody-classification match are provided for the entire data set in Table 7. Of the four types completed each month, the vast majority (73%) were male reclassifications. Using the current classification RLCs, 80% of individuals are recommended for Community placement, while the Adjusted RLCs indicate 43% as Low/Community and a near even distribution (18-20%) across the three higher risk categories.

Next, we identified the facility in which an individual was housed in each study month. NSP was identified to house the greatest proportion of individuals each month (20%), however the reception center (DEC) and LCC were recently combined to create the newly formed RTC, which collectively houses 21% of the NDCS population. When examining security types across facilities, the mixed designation of Maximum/Medium (1X/2X) was the most frequent housing type (40%), which was followed by the 'true' Maximum (1X) (14%) and Community (4A/4B) designation (12%). Regarding the security of housing locations, a greater proportion of NDCS individuals are housed in 'true' custody (53%).

To identify the potential NDCS facility needs, we analyzed if the current and adjusted classification level matched the security level in which they were housed. When examining the housing security matches with current classification RLCs, 66% were identified as over-classified and additional 3% were under-classified, indicating that NDCS staff override the current classification tool for nearly two-thirds of the scored assessments. However, using the Adjusted RLC cut points, 59% of scored classification would be overridden, indicating that 44% would be over-classified and 15% under-classified. Therefore, using either current or adjusted RLCs, findings indicate that over half of the assessments were overridden when placing individuals within a facility.

Table 7. Classification Descriptives

Indicator	**%**
Classification Type	
Initial Female	3
Initial Male	17
Reclass Female	8
Reclass Male	73
Classification RLC	
Violent/Maximum	6
Serious/Medium	10
Nonserious/Minimum	4
Low/Community	80
Adj. Classification RLC	
Violent/Maximum	19
Serious/Medium	20
Nonserious/Minimum	18
Low/Community	43

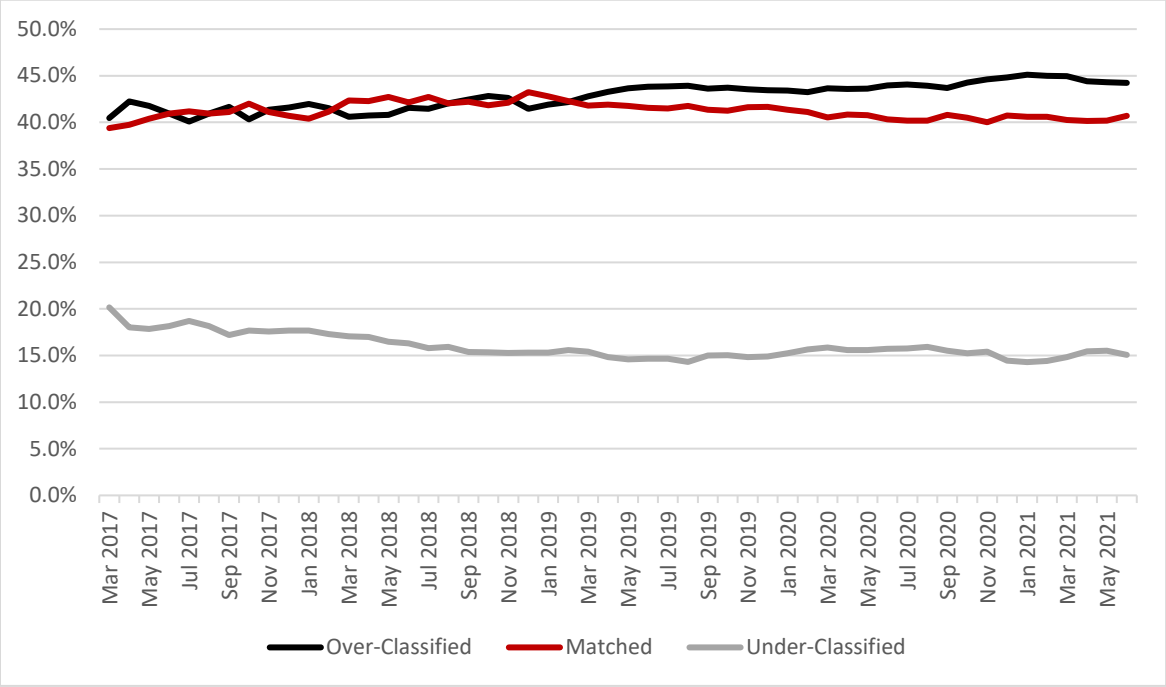
Facility	
CCL	15
CCO	5
DEC/RTC1	13
LCC/RTC2	8
NCW	8
NCY	1
NSP	20
OCC	14
TSC	14
WEC	3
Housing Custody Level	
Maximum	14
Medium	8
Minimum (3A)	15
Minimum (3B)	3
Community	12
Maximum/Medium	40
Medium/Minimum	1
Maximum/Medium/Minimum	6
Custody Type	
True	53
Mixed	47
RLC-Custody	
Over-classified	66
Matched	31
Under-classified	3
Adj. RLC-Custody	
Over-classified	44
Matched	41
Under-classified	15

Given the rate of overrides needed based on classification scores, it is necessary to further explore if these patterns are consistent over time or reflect population changes. Figure 13 provides a visual of adjusted classification RLC matches, under- and overclassified individuals plotted monthly for the study period. The under- and over-classification are relatively stable. What is notable about the plot is a lack of peaks, indicating the RLC proportions have changed little over time.

However, the plot illustrates a substantial (roughly 5%) increase in the overclassified population, which exceeds the proportion of matches in March of 2019. This trend also

corresponds with 5% decrease in under-classified individuals observed over the study period. Further, this trend corresponds with the ADP 'spike' identified previously, where fewer parole releases were observed. This, in turn, blocked promotions of those in higher security facilities and, subsequently increased the proportion of overclassified individuals. However, the overclassified trend continues past the March 2020 COVID decrease, indicating that promotions have slowed. While only a small increase, the growth of the overclassified population indicates the population is becoming proportionately lower risk over time, suggesting a greater need for lower security beds.

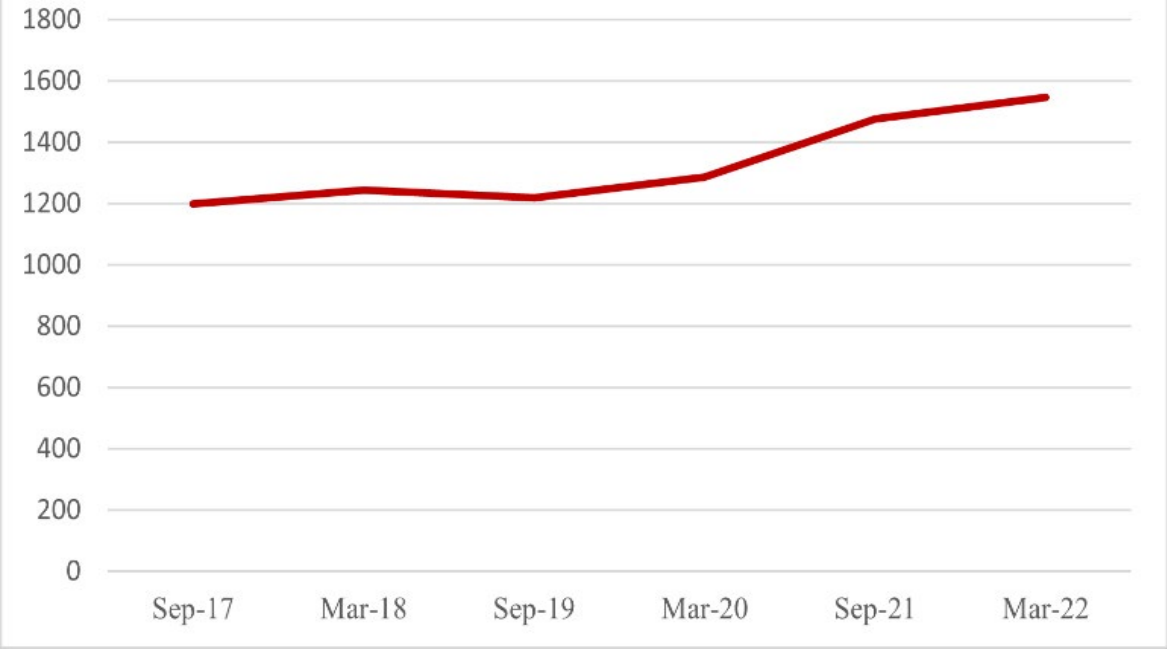
Figure 13. Adjusted Classification-Custody Alignment by Month



With this said, the increase in overclassifications may be due to two potential processes. One possibility is that the newly admitted individual population are lower risk, resulting in a greater proportion of overclassified persons. An alternative explanation is that individuals' terms of incarceration are longer, and, over time, are reclassified as lower risk. Yet, these individuals' promotions are restricted to a lower custody level, resulting in a greater proportion of overclassifications.

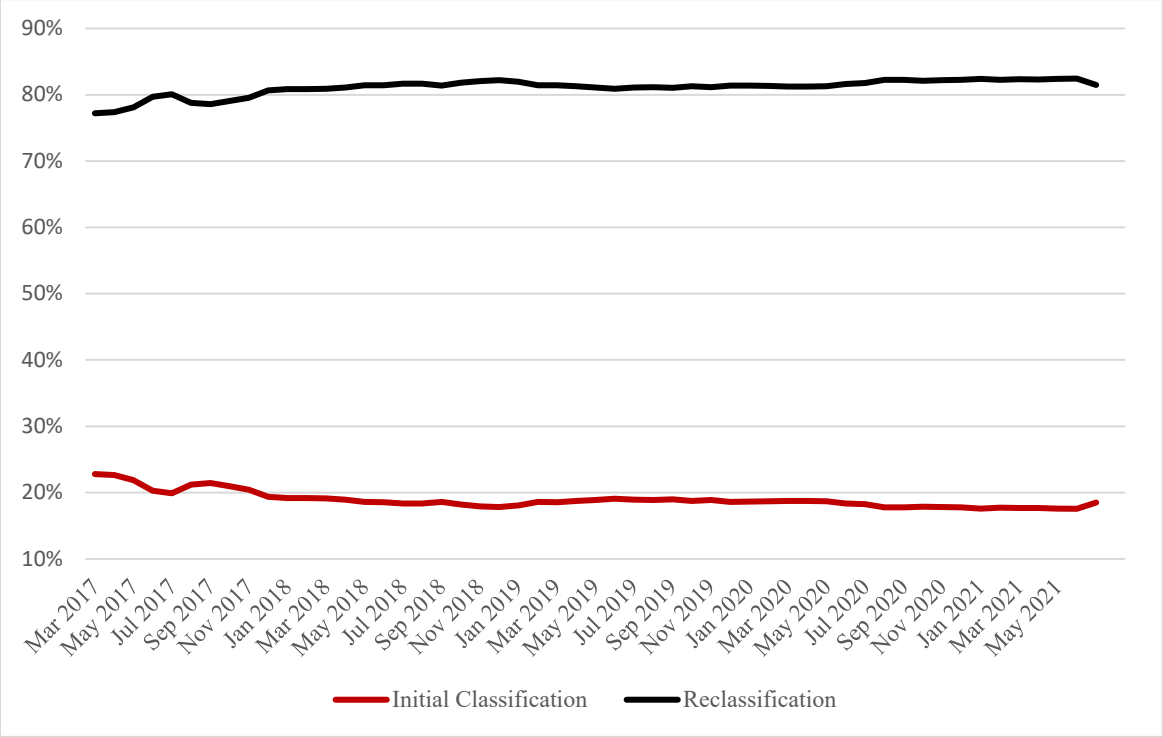
To examine terms of incarceration, we examined changes in individuals' 'time to release'. In Figure 14 we provide a line chart tracking the average days to release for the NDCS prison population. As indicated, a slow growth of incarcerated individuals' *average days to release* is observed, 1,200 days (3.3 years), to 1,600 (4.3 years). Diven by longer sentence lengths, average time to release is extended substantially, contributed to prison crowding via the greater retention of individuals over time.

Figure 14. Average Days to Release



To examine these potential processes further, we examined classification type by month. A line chart of the proportion of initial versus reclassification assessments is provided in Figure 15. Again, the trends are stable, but we observe a *5% decrease in initial classifications*. This increase in the proportion of reclassifications suggests that the observed ADP growth is likely the result of longer terms of incarcerations, not new admissions. This further supports the finding that the increased proportion of overclassified individuals is likely a result of an inability to promote to lower custody levels.

Figure 15. Classification Type by Month



Next, we examined classification alignment by gender. Figure 16 provides a plot of male matches and misalignment by month. Again, while modest, the pattern holds, where overclassifications increase, and under-classifications decrease, over the study period by roughly 5%.

Figure 16. Male Classification-Custody Alignment by Month

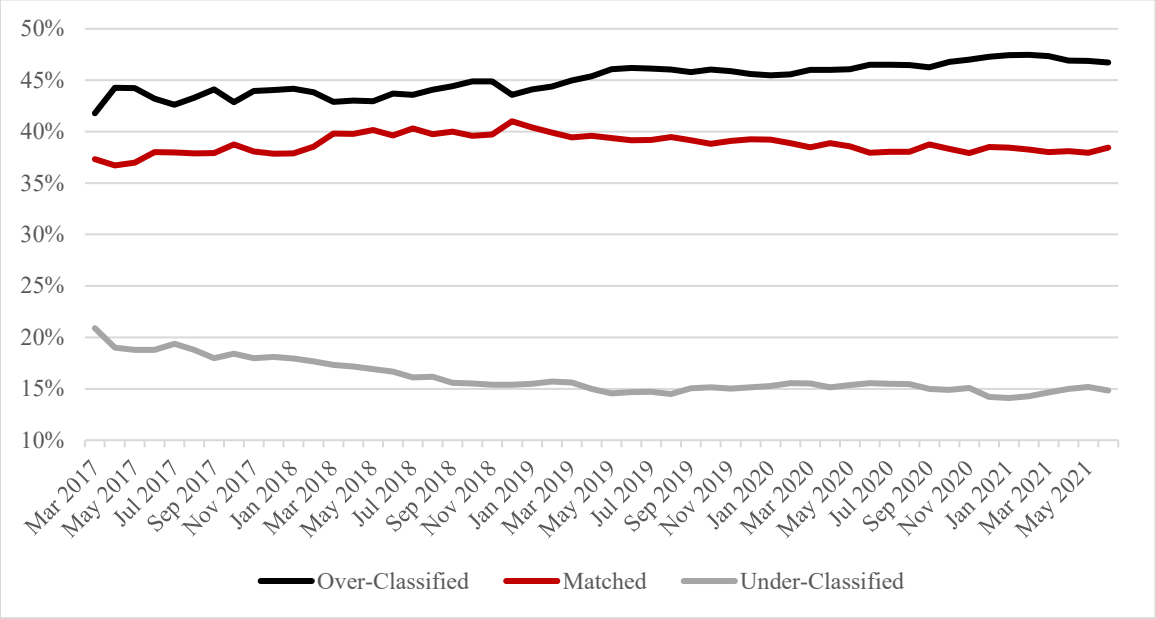
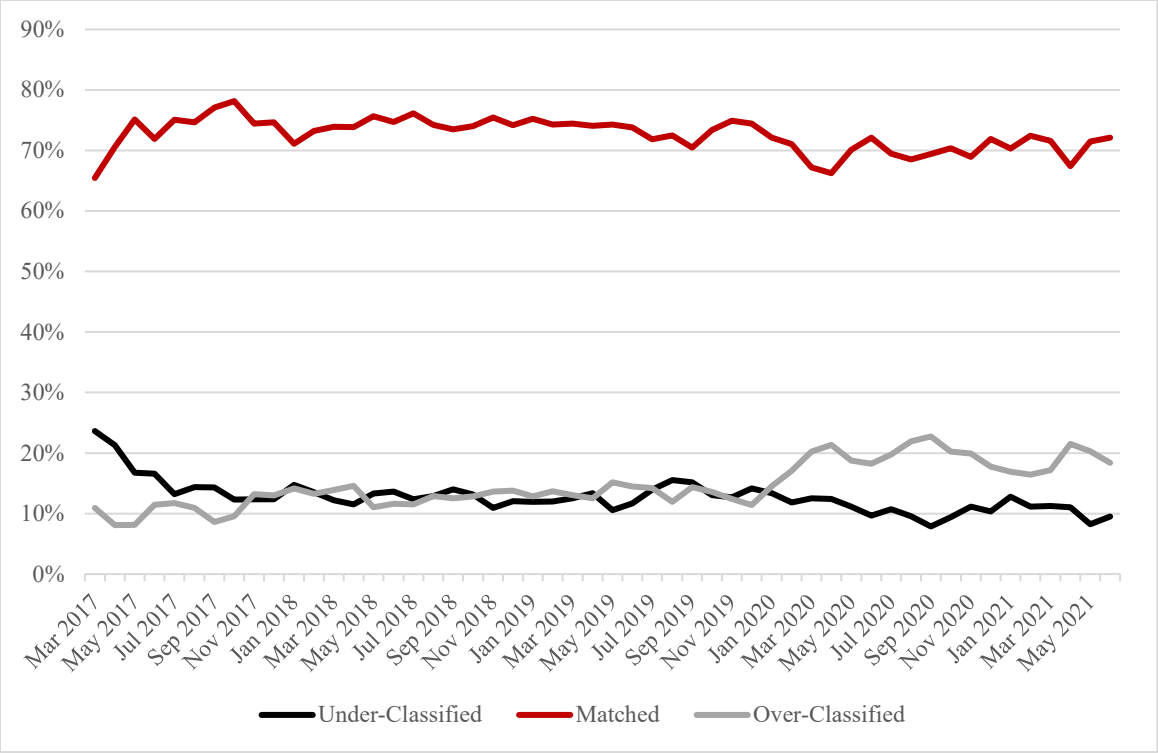


Figure 17 provides a plot of female matches/misalignments by month. In contrast to males, females display a greater than 10% reduction of overclassifications and a 10% increase in under-classifications. However, it should be noted that, females display near 70% matched rate, which is likely due to NCW serving as a mixed custody unity for maximum, medium, and minimum custody. Further, CCL was expanded, allowing for a greater proportion of female individuals in community custody. This expansion likely led to the increase in female under-classifications, where a greater proportion of higher risk females were allowed to transfer to CCL as they near their time to release date (TRD). However, it is also important to note that both female facilities (NCW & CCL) have ample space available, indicating that NDCS crowding issues are isolated to male facilities. Thus, additional analyses *focus primarily on male facilities*[24].

Figure 17. Female Classification-Custody Match by Month

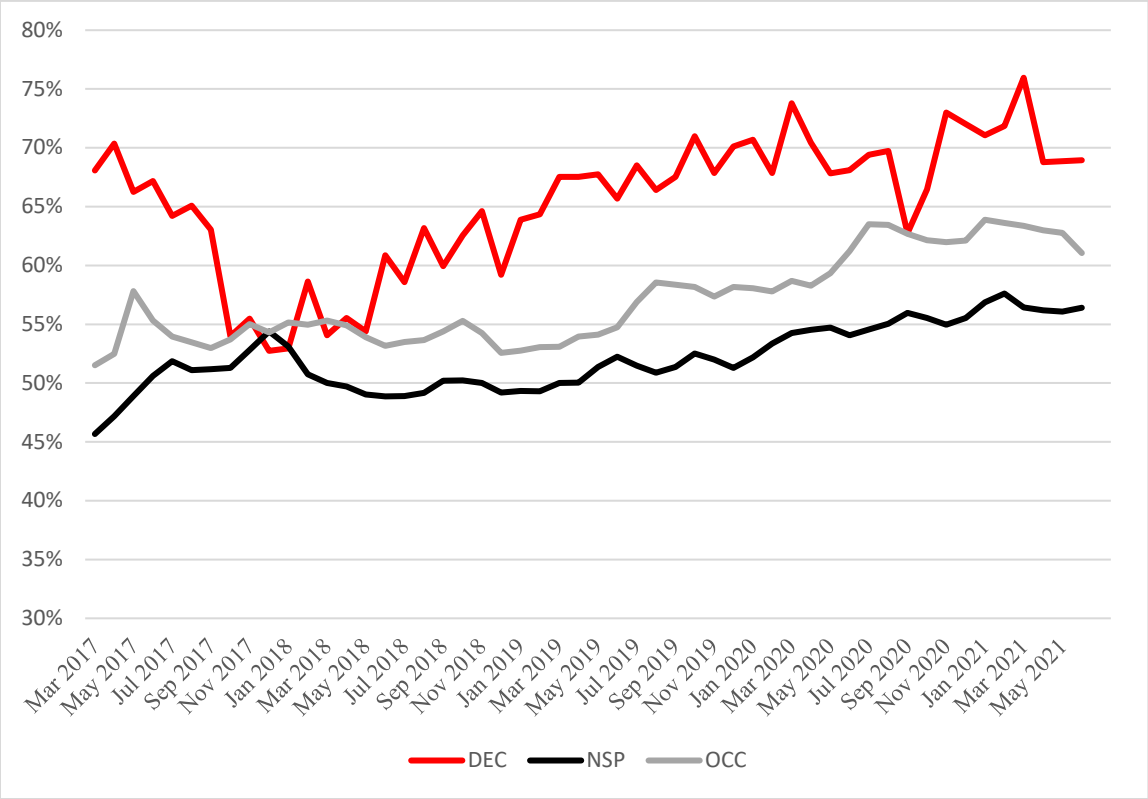


[24] We note that the NCYF facility for youth provides a similar scenario as female facilities, where crowding and under/over-classification does not present an issue for NDCS and is thus, not considered in facility level analyses.

Classification Alignment by Facility

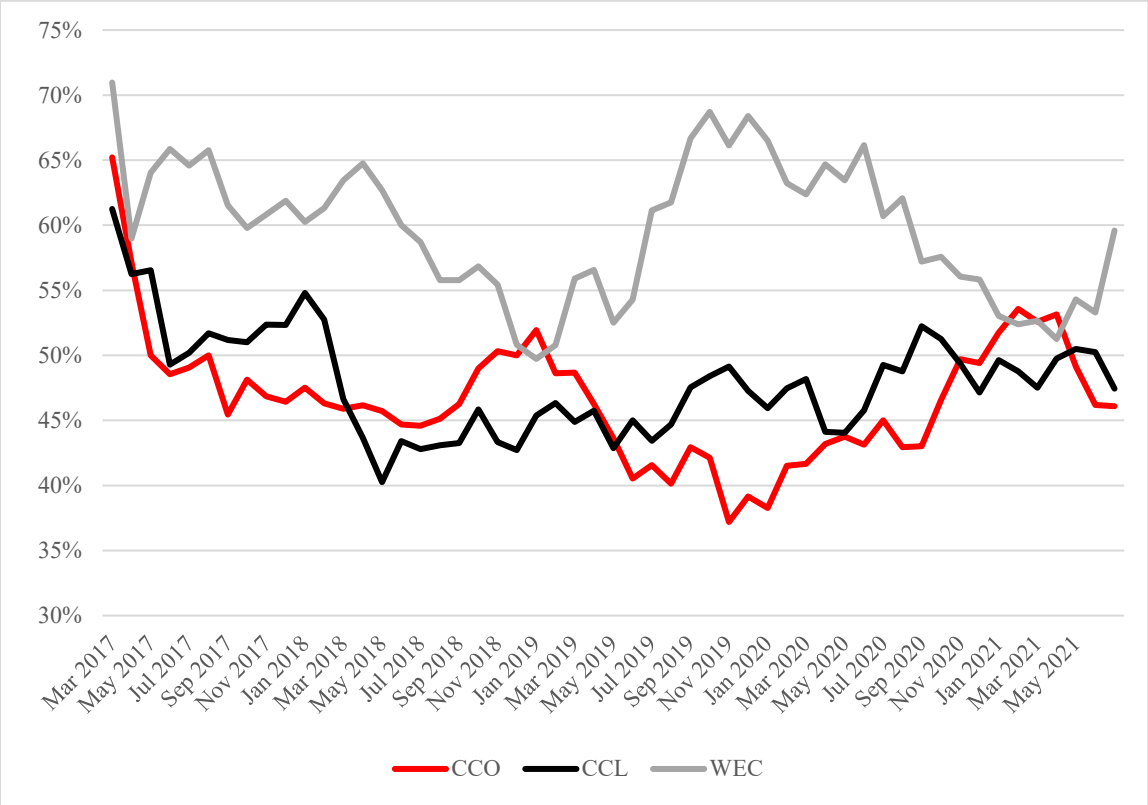
Next, we examined classification alignment by facility. There were two male facilities – TSC and LCC – that did not present substantial trend changes in alignment proportion across the study period. Therefore, we focus our facility-level analyses on the six facilities that demonstrated trend changes. Figure 18 provides an illustration of the overclassification rates of three facilities demonstrating increases during the study period. Similar trends were observed for both NSP and OCC, where the rate of overclassified individuals increases by over 10%, with a sharper increase beginning around the time of the start of the 'spike' (September 2018). In contrast, the intake facility's (DEC/RTC1) presents a more irregular trend. Specifically, from March to January 2017 the proportion of overclassifications decreases by roughly 15%, only to rebound to 70% by May of 2021.

Figure 18. Facilities Increasing Over-Classification by Month



Next, the three facilities that demonstrated changing under-classifications trends were examined. Figure 19 provides a line chart of their monthly trends. Similar to the overclassification trends, two facilities – CCO and CCL – presented more stable trends. Specifically, the community facilities presented a decrease of over 20% from the start of the study period, rebounding slightly in late 2020. Yet, both facilities decreased under-classification rates by 15% by the end of the study period. A less regular pattern was observed for WEC, where under-classification rates decreased by 20% from March of 2017 through January of 2019, rebounding in late 2019, and finishing roughly 10% lower by the end of the study period.

Figure 19. Facilities Decreasing Under -Classification by Month



Overall, two consistent trends are identified by examining classification alignment. First, three facilities present increasing trends of overclassification, while an additional three facilities decreasing rates of under-classification. This finding further confirms that the NDCS population has a decreased risk for misconduct over time. Taken together, these findings suggest that fewer higher risk individuals are being provided early promotion to community custody; while a greater proportion of lower risk individuals are having their promotion delayed due to bed space restrictions in community custody. As indicated earlier, these findings suggest that issues of crowding may be the result of too few community beds and/or alternatives to incarceration for lower risk individuals.

Alignment Trends by Custody Type

When examining housing unit security level by custody alignment type, we find promotions are often delayed. Table 8 provides descriptive statistics of the sample alignment by all custody designations. Examining alignments, most 'matched' alignments were identified at mixed custody levels, in particular levels Maximum/Medium. As anticipated, more overclassifications are observed at true Maximum, Medium, Minimum A and the mixed custody designation Maximum/Medium, while more under-classifications are observed at lower true custody – Minimum A, Minimum B, and Community.

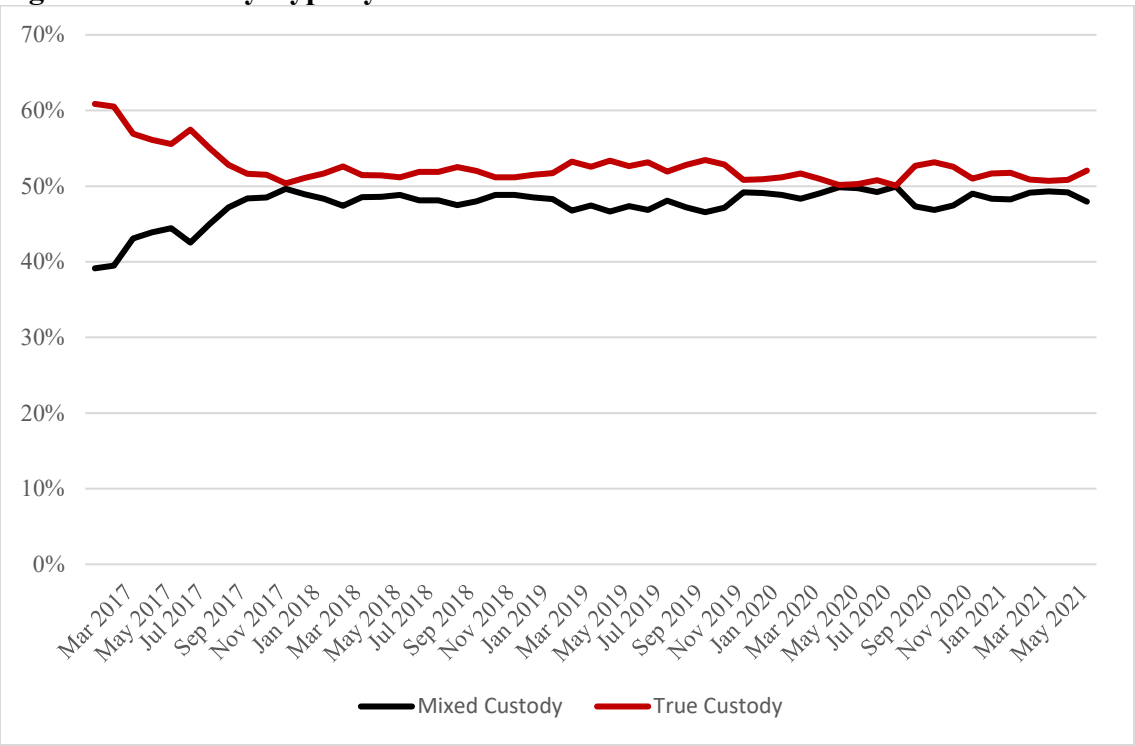
Further, when isolating true versus mixed custody we find that roughly 55% of males are housed in a true custody unity. However, when examining alignment, 52% of overclassified individuals are housed in a true custody unit, while 42% of the matched are in true custody unit. As anticipated, many of the under-classified are primarily housed in lower security true custody units (95%).

Table 8. Male Housing Unit Security Level by Custody Alignment

Housing Unit Security Level	Total%	Over-classified %	Matched %	Under-classified %
Maximum	15	19	9	0
Medium	9	15	4	8
Minimum A	17	19	9	34
Minimum B	4	0	4	16
Community	11	0	16	37
Maximum/Medium	37	41	48	0
Medium/Minimum A	7	7	10	5
Mixed vs. True Custody				
True Custody	55	52	42	95
Mixed Custody	45	48	58	5

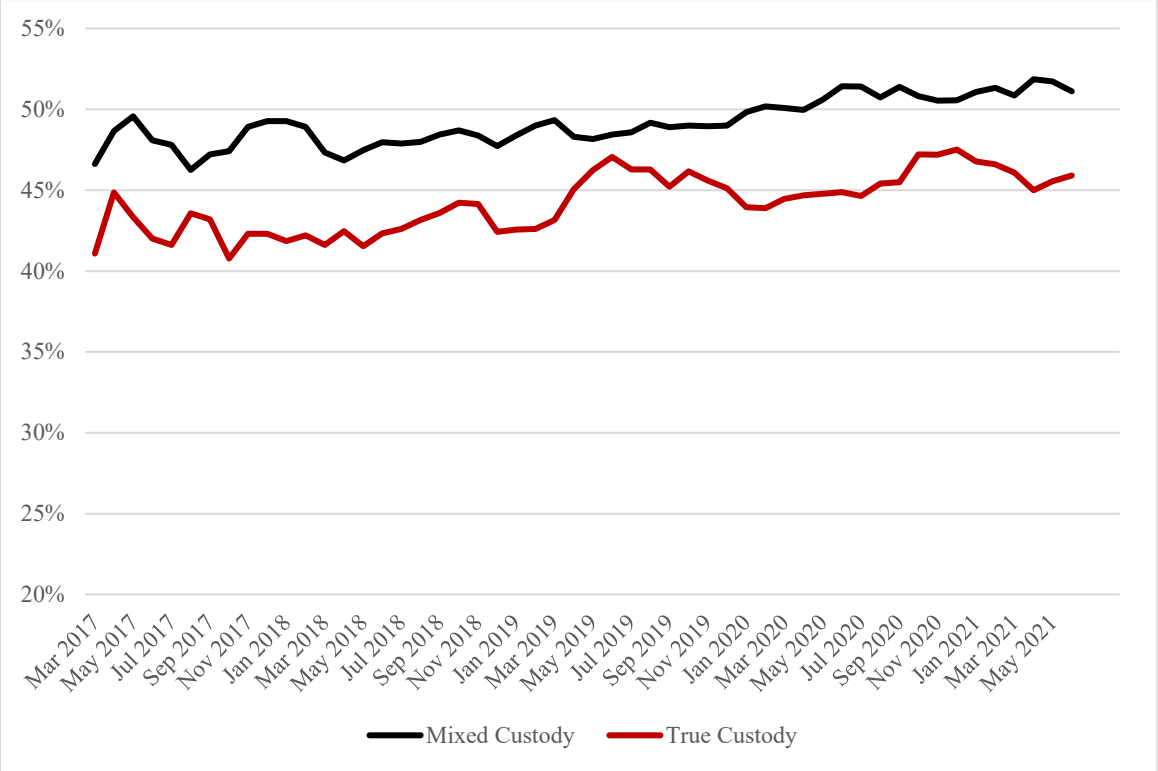
Next, we categorized those housed in a mixed versus a true custody unit and track the proportionate changes over time in Figure 20. Although part of our examination of Deliverable 2, we considered if an increase in housing unit type was associated with the observed changes in prison population risk. In March of 2017 through January of 2018, we observe a 10% increase of individuals housed in a mixed custody unit. However, this trend flattens in early 2018, and thus, may not be associated with the ADP spike observed in Figure 5.

Figure 20. Custody Type by Month



We further examined the pattern of true and mixed custody among those over classified by month. In Figure 21, we chart only male overclassifications, comparing true and mixed custody across study months. Here we do not find much of a distinction, as overclassifications increase by roughly 5% for both groups over time. Given the nearly even split of overclassifications across these two custody types (52% & 48%, respectively), it appears as though each type is used to support the increase in the overclassified population. The issue of mixed versus true custody will be further explored as a part of Deliverable 2.

Figure 21. Overclassified Mixed Vs. True Custody by Month



Alignment Trends by TRD

Next, we examined the relationship of overclassification of an individual's time to release. In Table 9, descriptive statistics are provided for two measurements of time to release. First, we examine a dynamic version, where each month an individual's TRD grows closer. Therefore, for each month the days until a TRD are reduced by roughly 30 days. This metric is used to identify individual's progress as they are anticipated to promote to lower custody levels and possess less overclassification the closer their TRD. We further specify individuals with less than, or greater than, a year to their TRD. Next, we use TRD as a static measure, identifying those that are admitted to NDCS and have less than a year prior to their TRD. This metric is used to identify if the pattern of 'short timers' (to be further analyzed in Deliverable 3) is impacted by overclassification.

As indicated, 80% of individuals have more than a year until their TRD in any given month. In contrast, 90% of individuals enter NDCS with greater than a year to serve in a given month. Thus, 10% of individuals enter as short timers. Regarding alignment patterns, we see consistent findings, where those with greater than a year to serve have a higher rate of overclassifications (46%), followed by matches (40%), and fewer under-classified (15%). Therefore, those with longer than a year to serve are more likely to be held at a higher custody level than their risk would indicate.

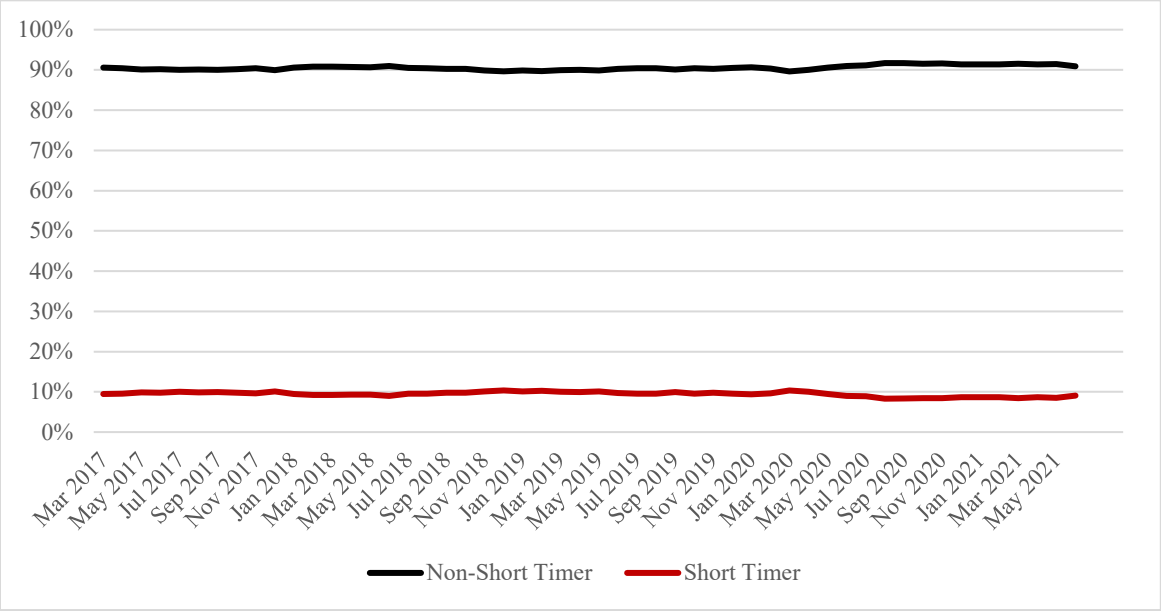
However, when examining those with less than a year at admission (short timers) we find that the rate of overclassifications is 10% higher on average (44% vs. 34%). This finding is likely due to a portion of short timers having little time to their TRD, such that they remain in DEC/RTC1 for their entire term of incarceration. Collectively, these findings indicate two potential and interacting processes. First, a portion of short timers are blocking promotion of those with greater than a year to serve, taking up beds in minimum and community-level facilities, which creates over-classification for non-short timers. Second, a substantial portion of short timers may also be over-classified, as the time until their TRD is too short to merit a transfer to a facility beyond DEC/RTCI.

Table 9. Male Non/Short-Timer Classification Alignment

Time to Release	Total	Over-classified %	Matched %	Under-classified %
Dynamic TRD				
Greater than 1 year	80	46	40	15
Less than a year	20	36	40	25
Static TRD (short timer)				
Days Admit to TRD				
Greater than 1 year	90	44	40	16
Less than a year (Short Timer)	10	44	34	22

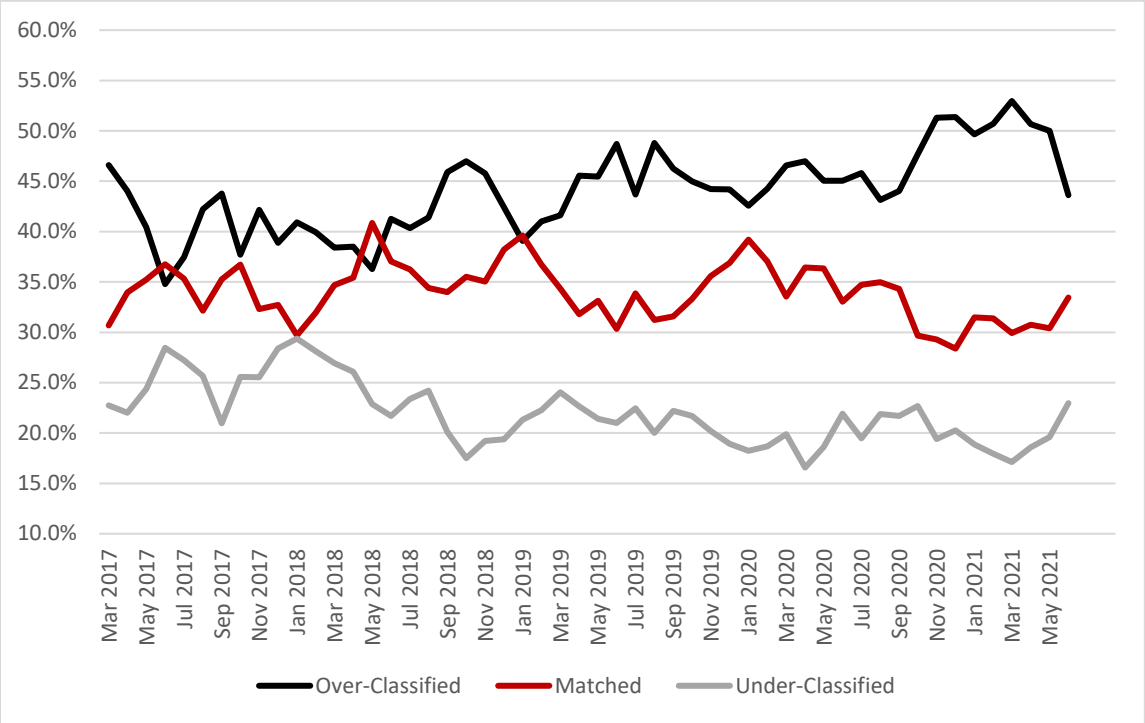
In Figure 22 we further examined short timers, or those with less than a year to their TRD at admission. Unlike the over-classification trends, we do not see an increasing pattern with the short timers versus the non-short timers. Over the study period, there is a steady rate of 10% short timers throughout, indicating that this population has not changed substantially since the implementation of the classification tool.

Figure 22. Short Timers by Month



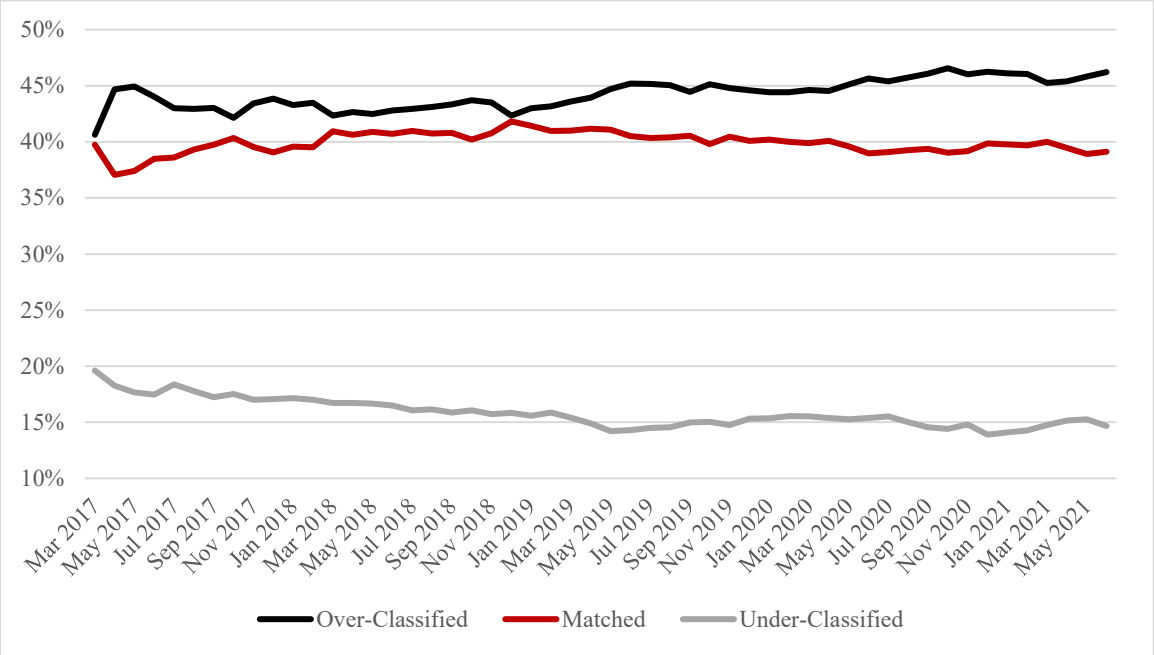
Next, we examined short timers' classification alignment. Figure 23 provides an illustration of short timers, grouped into the three alignment types, charted across the study months. Apart from the last study month (June 2021), a near 5% increase in over-classification is observed across study months. We can infer that increases in over-classified short timers are likely the result of being held more often at intake (DEC/RTC1) over time.

Figure 23. Over-Classified Male Short-Timers Alignment by month



As a comparison, we also examined non-short timer alignment. Figure 24 provides an illustration of non-short timers, grouped into the three alignment types, charted across study months. A similar, yet more stable pattern is indicated, where overclassifications increase by roughly 5% over the study period. This mirrors prior trends, where overclassifications increase for both short timers and non-short timers during the study period.

Figure 24. Male Non-Short Timer Classification Match by Month



Alignment Trends by Demographics

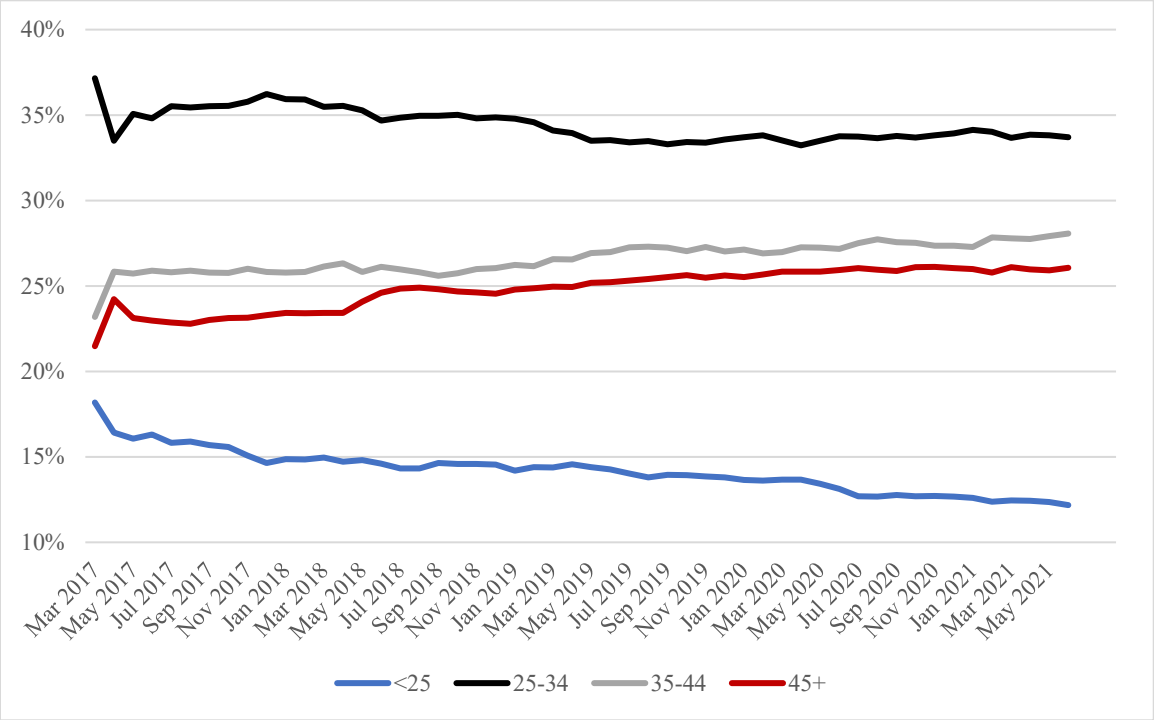
Next, we examined alignment trends by key demographics. Table 10 provides descriptive statistics and risk category alignment by age and race/ethnicity. As indicated, those 25-34 years old were the most common age group, and the population is just over half White (52%), whereas all other groups represent 48% of incarcerated individuals. We also note that older individuals are more often overclassified, where those 45 and older and 35-44 indicate the greatest rates (75% & 50%, respectively). Further, White and Hispanic individuals are over-classified most frequently (48%).

Table 10. Demographics by Classification Alignment

Measure	Total	Over-classified %	Matched %	Under-classified %
Age				
< 25	14	17	59	24
25-34	34	29	50	22
35-44	27	50	37	13
45+	25	75	22	3
Race				
White	52	48	38	14
Black	28	36	46	18
Hispanic	14	48	39	13
Other	6	37	47	16

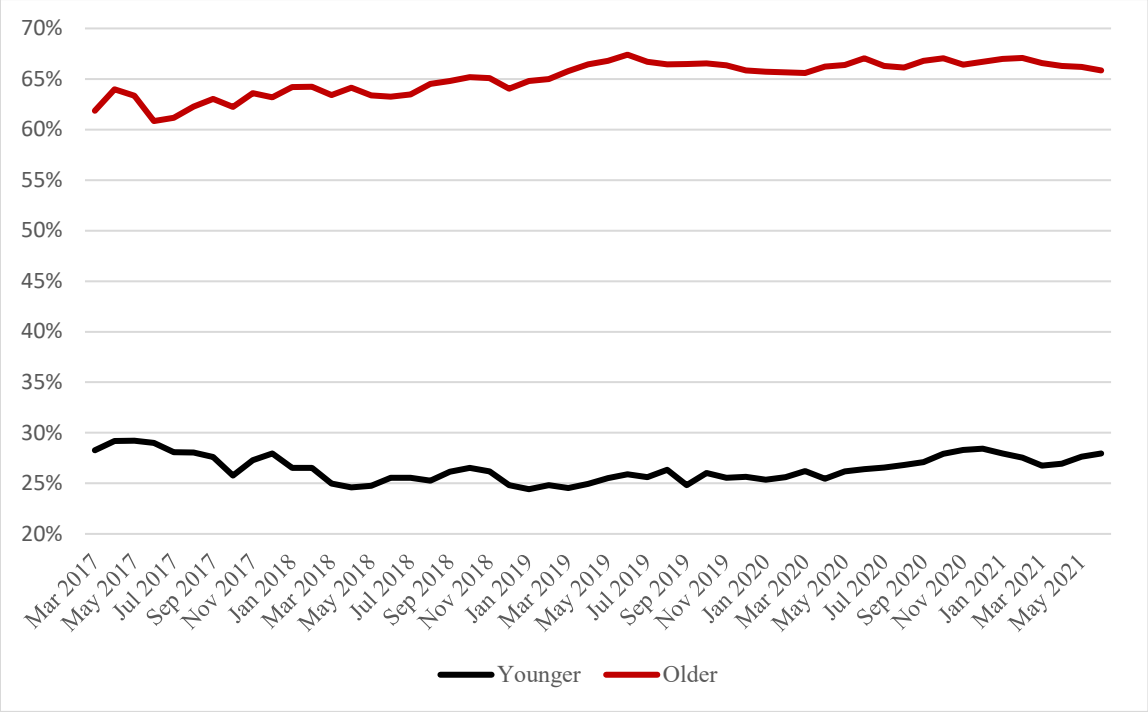
In Figure 25, we identify 4 age groups: less than 25, 25 to 34, 35 to 44, and 45 years or older. Consistent with prior trends, a 5% increase in overclassification was observed for the older two age groups. In contrast, a 5% decrease is observed in the two younger age groups. These findings indicated that the NDCS population is getting older, as more individuals are serving longer sentences.

Figure 25. Male Age Group by Month



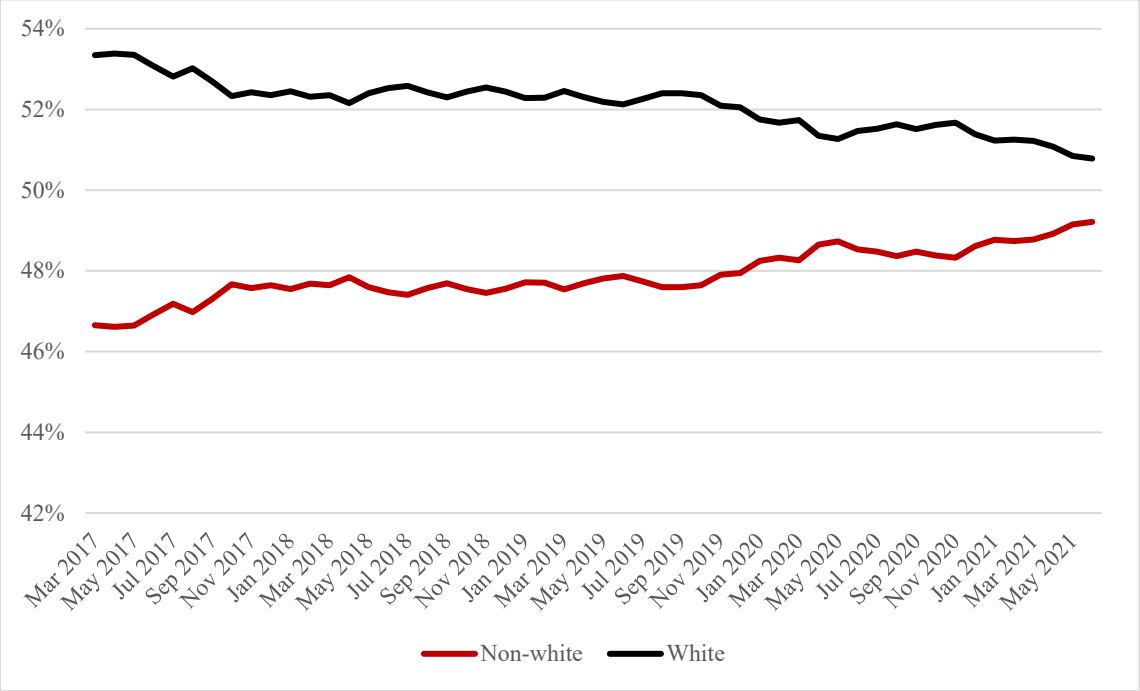
Next, we examined male classification alignment by age. In Figure 26, we combine the two younger and two older age groups, plotting overclassification trends across the study period. Again, we find a consistent pattern, where the younger age group has reduced, and the older group has a 5% increased proportion of overclassification during the study period. This is another indicator of individuals serving longer terms, reducing their risk of misconduct, yet unable to be promoted to a lower custody level.

Figure 26. Male Over-Classified Older vs. Younger by Month



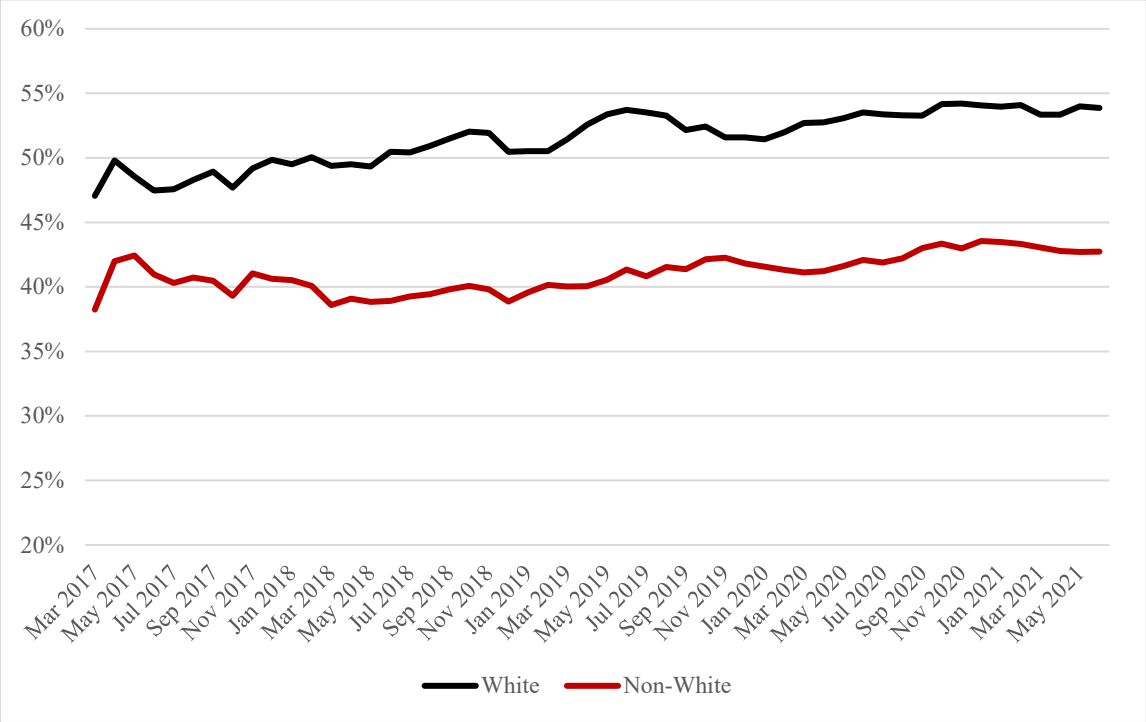
We then examined race/ethnicity by study month. First, to highlight primary contrasts, we recoded race as a dichotomy of White/Non-White for ease of interpretation. The line chart presented in Figure 27 presents a slight decrease in White individuals and a decrease in Non-White individuals by roughly 3% over the study period.

Figure 27. White/Non-White by Month



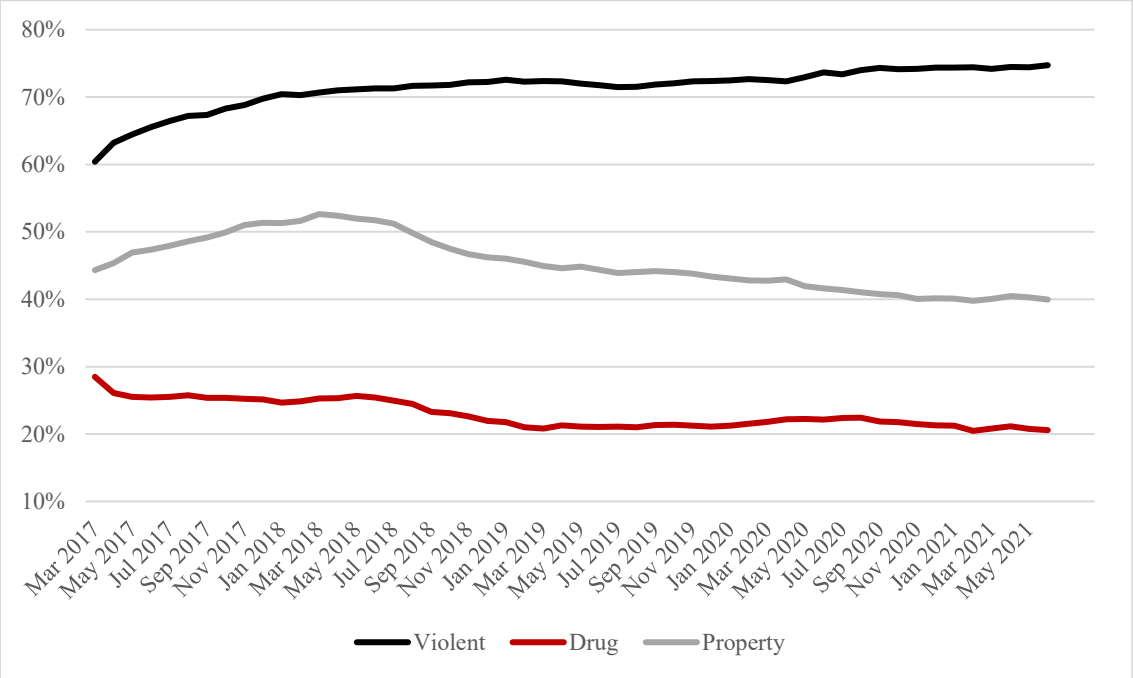
We then examine male over-classifications by race. Here we find that overclassifications increase regardless of race. Specifically, in Figure 28 we identify that both White and Non-White over-classification increases at roughly 5%. This indicates that overclassification is consistent across racial lines.

Figure 28. Male White/Non-White Over-Classification by Month



Next, we examined individual's current offense by month. Figure 29 provides a line chart of three primary offense types – violent, property, and drug. Findings indicate a near 15% increase in violent current offense. Further, after a slight increase in individuals with a drug current offense (March 2018), the proportion decreases by 1%, while property crimes decrease by 6%. This general trend indicates that those with a violent current offense have increased as a proportion of the NDCS population.

Figure 29. Current Offense by Month



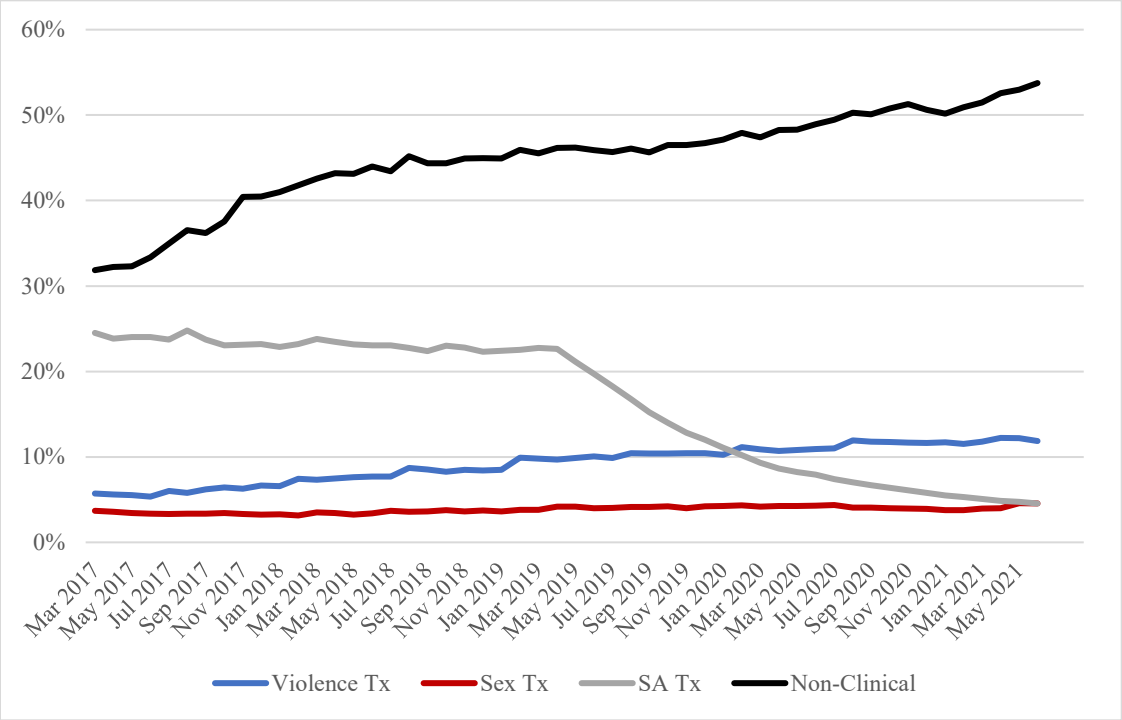
We then examined overclassifications by current offense. In Figure 30 a line chart illustrates overclassification trends over time. While a small decrease is observed for drug offenses, the trend returns to roughly 30% by June 2021. Property offenses remain steady at roughly 33%. However, overclassified individuals with current violent offenses increase in proportion by roughly 5%. Consistent with prior trends, individuals with a current violent offense are more likely to have longer terms and, despite reducing their risk over time, are held back from promotion.

Figure 30. Overclassification Current Offense by Month

Alignment Trends & Programming

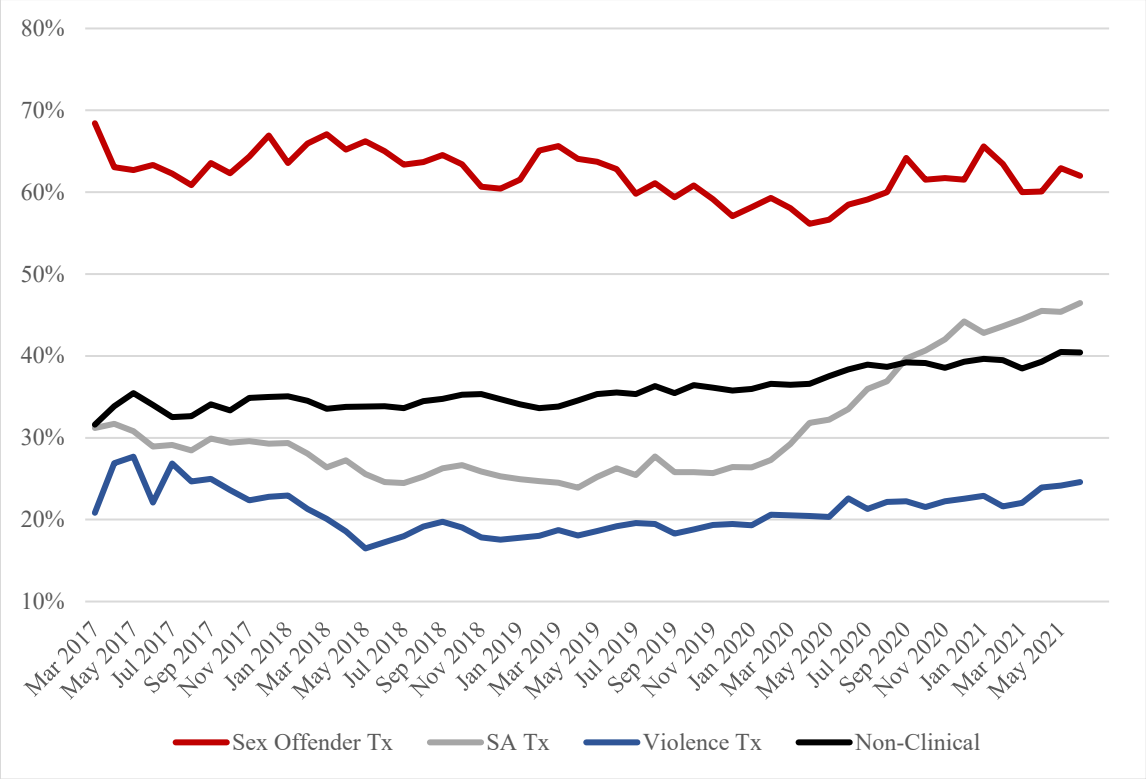
We then turned to programming, identifying the proportion of subjects receiving programming over the study period. Figure 31 provides a line chart of program participation, grouped into four categories – Violence Treatment (Violence Tx), Sex Offender Treatment (Sex Tx), Substance Abuse Treatment (SA Tx), and Non-Clinical Programming. Findings show that Sex Offender and Violent Treatment increase slightly during the study period, and non-clinical programming increases by nearly 20%. However, between April of 2019 and June 2021, Substance Abuse Treatment decreased dramatically, roughly 18%. During this time period, non-clinical programing ramped up, and was provided at all facilities. However, there is a substantial decrease in Substance Abuse treatment programming during the study period.

Figure 31. Programming by Month



When examining treatment participation for over-classified individuals, a different set of trends emerges. In Figure 32 a line chart provides the program participation rates over time, for only those over-classified. While Sex Offender Treatment reduced slightly, decreasing by roughly 6%. It should be noted that Sex Offender Treatment is only being offered at one facility (OCC), and in a medium security housing unit. The provision of Sex Offender Treatment at medium custody is a contributing factor as roughly 60% of those receiving said treatment are over-classified. Those receiving Violence Treatment programming stayed relatively stable at a rate of 20% overclassified. Similar to our findings in Figure 22, Non-Clinical programming increased for overclassified individuals by roughly 5%. Finally, in somewhat of a reversal of trend, here we see participation of Substance Abuse Treatment increase by over 15% for overclassified individuals during the study period with a substantial increase observed after February 2020.

Figure 32. Overclassification of Treatment Participation by Month



Alignment Trend by Unit Type

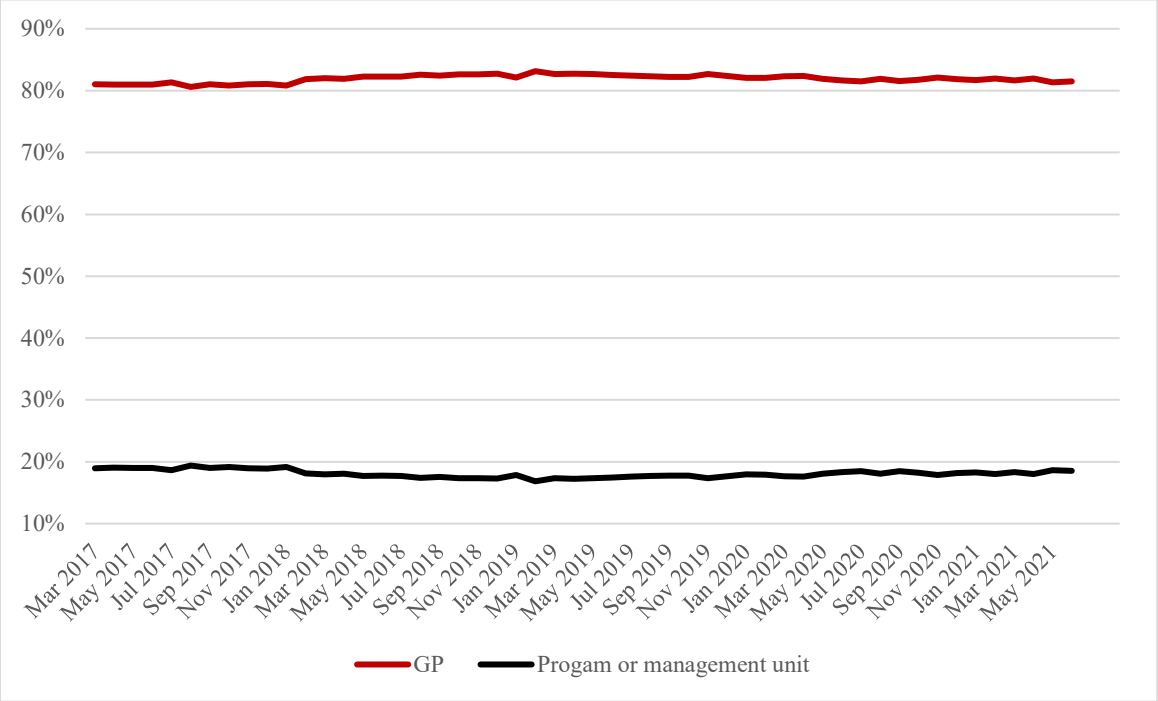
Another important consideration is delayed progression due to placement in specialized units, such as residential units used for programming and management. Table 11 provides descriptive statistics indicating the proportion of individuals in a general population (GP) unit and those in a specialized unit. As indicated, 82% of the NDCS population are in a GP unit. Of the 18% in a specialized unit, 7% were in a program, and 11% were in a management unit. Regarding program units, the primary types were mental health (3%) and sex offender (2%). Further, 8% were housed in protective management and 3% in Restrictive/Long-term Housing.

Table 11. Specialized Unit Descriptives

Facility	**%**
GP Unit	82
Program or Management Unit	18
Program	7
Residential Substance Abuse	*1*
Mental Health	*3*
Sex Offender	*2*
Other	*1*
Management	11
Protective Management	*8*
Restrictive/Long-term Housing	*3*

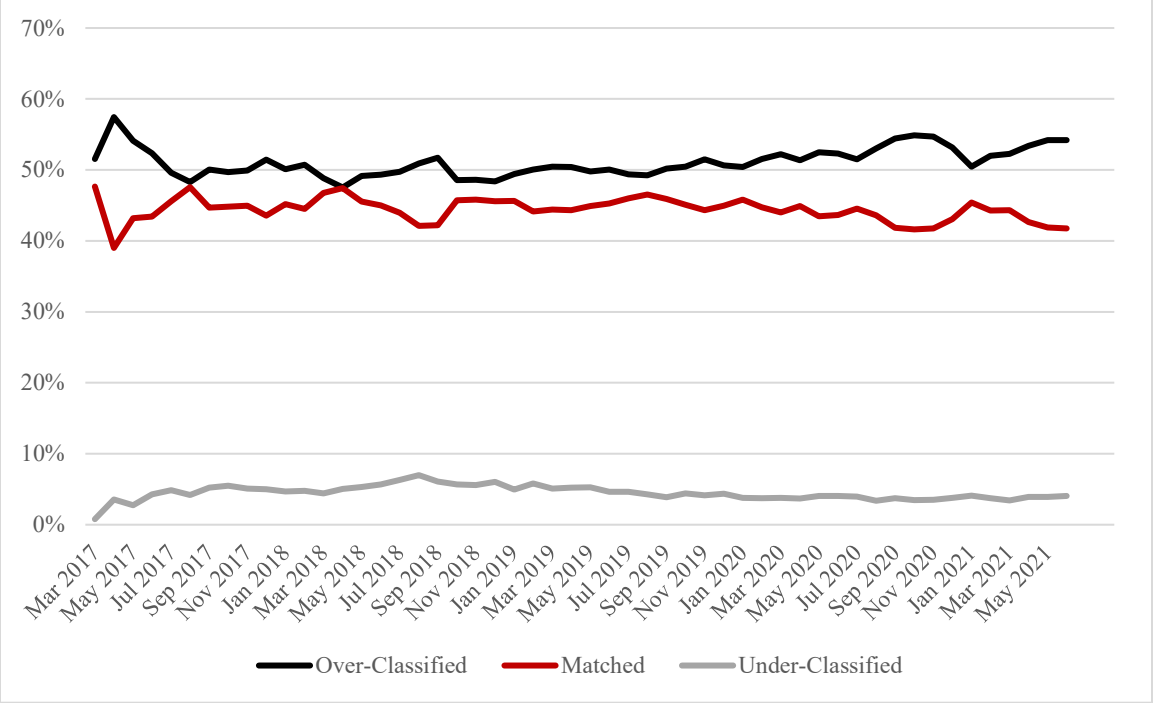
To further examine special unit trends, we combined program and management units for the purposes of comparison to GP units. Figure 33 provides a line chart comparing the two types of units across study months. Notably, specialized unit trends indicate little change across the study period.

Figure 33. Specialized Unit by Month



Next, we examined alignment for specialized units. Figure 34 provides a line chart comparing alignment types for specialized units across study months. We observe a 5% increase in overclassified individuals in specialized units from August 2017 through the end of the study period. If this trend continues, it indicates a recent, yet gradual increase in overclassifications in specialized units. With that said, we do not see substantial changes in alignment by specialized units. This finding contrasts with staff perceptions derived from the process evaluation, where it was perceived that the units' growth in use may be contributing to greater rates of overclassification.

Figure 34. Specialized Unit Classification Alignment by Month



Alignment Trends by Override

When classification scoring and placement is not aligned with beds available, individuals' needs, and/or staff perceptions of risk, overrides are used by classification staff to place an individual in the housing unit deemed most appropriate. Following the implementation of the IRA classification tool in 2017, the reason for an override was documented in 1 of 9 categories. Descriptive statistics of each mandatory override, averaged across study months, are provided in Table 12. Further, several override categories are conceptually similar and were combined for ease of interpretation. Specifically, we combined overrides related to detainers and recent escapes and those related to time to TRD and Life Without the Possibility of Parole (LWOP). A last remaining discretionary override was not combined and captures overrides for 'Other' or "any recommendation outside of scored risk level that is not accounted for in another override".

As indicated, TRD related overrides were used most frequently (27%). This finding reflects the NDCS policy to release individuals from the least restrictive security level, whereby those with less time to their TRD are prioritized for lower custody levels. These overrides are commonly needed to prevent promotions of those with longer times to serve, reserving limited bed space in lower custody levels for those closer to their release date. Discretionary override 'Other' was next most frequently used reason (15%), followed by those used for Detainer/Escapes. Finally, it should be noted that an override was used in 42% of the classification assessments during the study period.

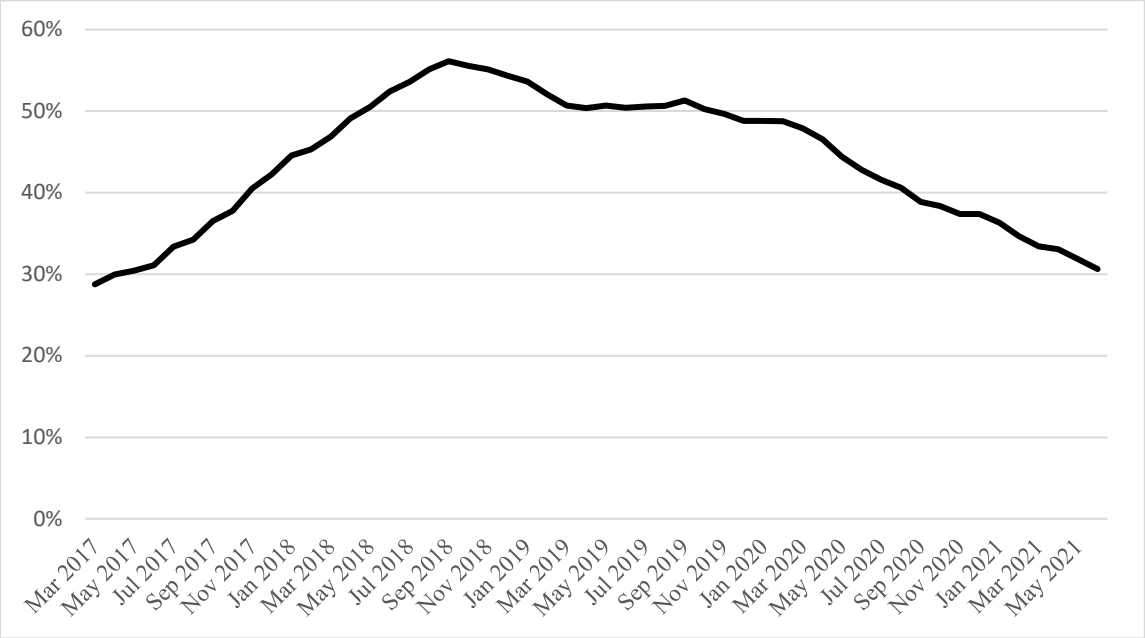
Table 12. Male Override Reason Descriptives

Override Reason	**%**
Any Override	45[a]
Detainer-Escape	11
Recent escape (not captured in assessment)	*1*
Misdemeanor or Felony detainer	*9*
Felony detainer (highest severity)	*1*
TRD Related	27[a]
TRD > 20 years (assign Max)	*9*
TRD > 7 years (eligible Min. A)	*18*
TRD > 5 years (eligible Min. B)	*5*
LWOP	*5*
Discretionary 'Other'	15

[a] Note, overrides counted for this category are not mutually exclusive.

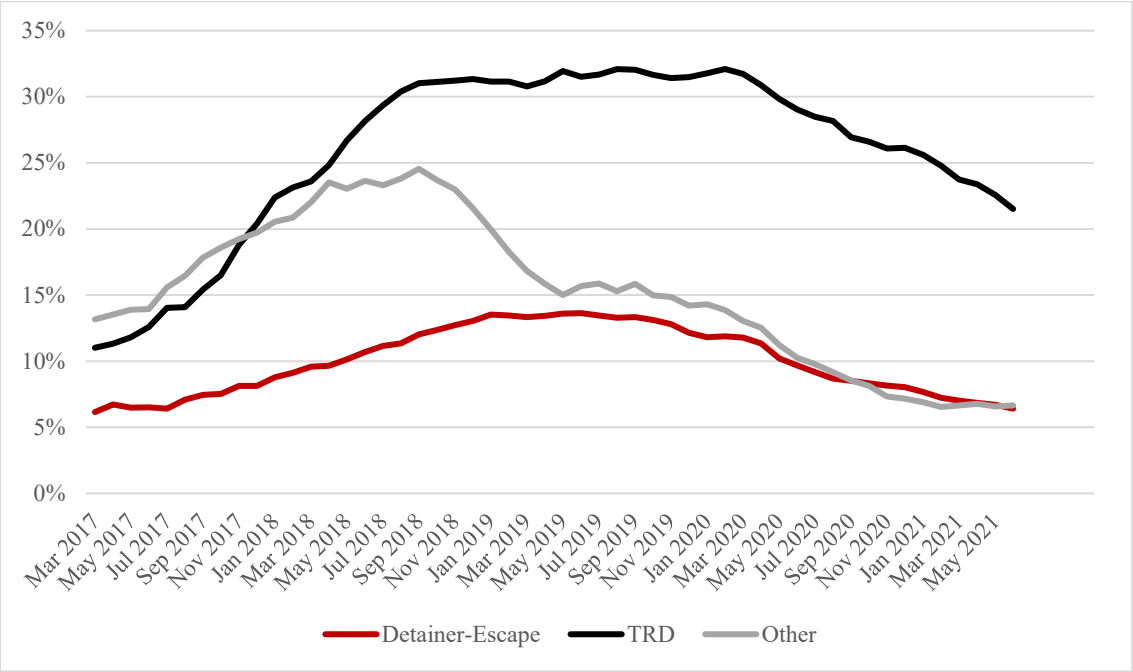
First, we examined the use of all overrides over time. Figure 35 provides a line chart of override usage during the study period. As illustrated, overrides were used at a consistently increasing rate through September of 2018, before a steady decline through the end of the study period. Interestingly, the decrease corresponds with the ADP spike mentioned earlier, where the decline in use is timed with the gradual increase in ADP.

Figure 35. Male Override Usage by Month



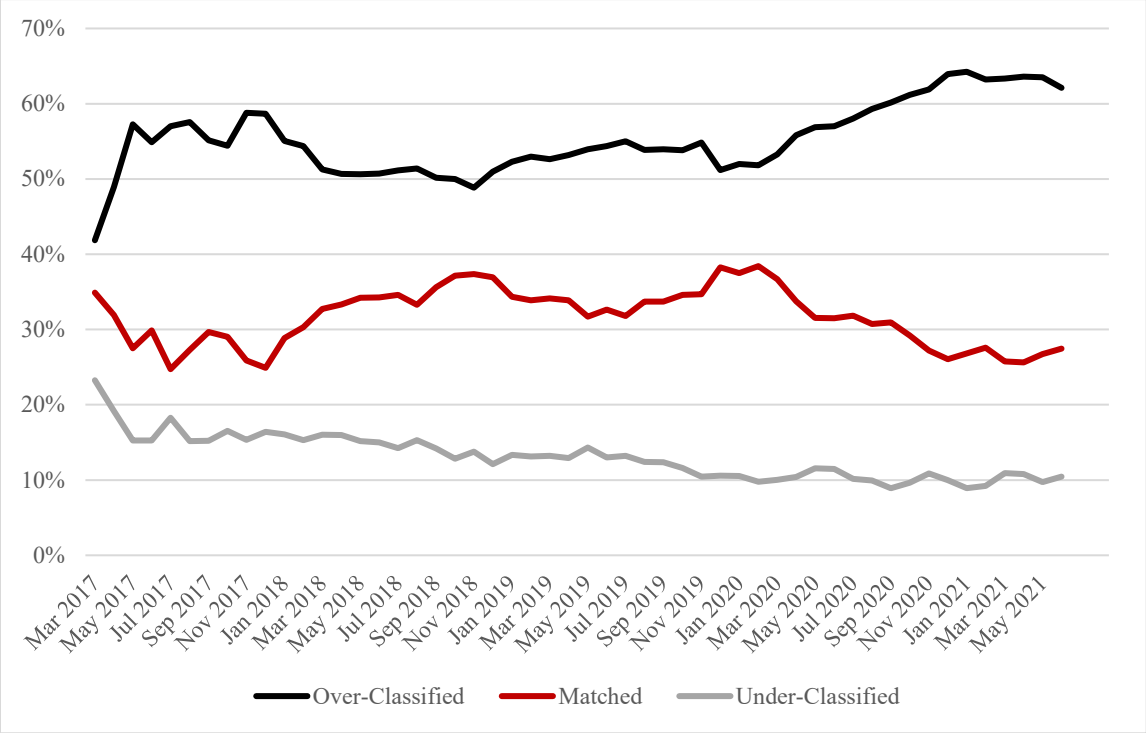
When examining override reasons, we used the grouped categories 1) Detainer-Escape, 2) TRD Related, and 3) 'Other' override. A line chart of the override trends is plotted in Figure 36. The use of each type of override is plotted per month across the study period. Each has a steady incline in use from the implementation of the tool though late 2018, before either flattening out and/or declining through the end of the study period. Specifically, the 'Other' override peaks at roughly the same time as the ADP spike. The TRD override peaks at the start of the ADP spike, flattens for several months before eventually decreasing following March of 2020. Notably, each of the override reasons has a sharp decrease following the start of the COVID-19 epidemic.

Figure 36. Male Override Reason by Month



We then examined custody alignment by override type. Overrides related to detainers and escapes are provided in the line chart Figure 37. For this override type, we observe a substantial increase in the rate of overclassifications and a marked decrease in under-classifications of roughly 10% over the study period. Notably, a sharp increase in overclassifications is observed for those with Detainer-Escape, following March of 2020. This finding suggests that the increase in detainer overrides was likely due to delays in court processing following the COVID-19 epidemic.

Figure 37. Male Detainer-Escape Override Custody Alignment by Month



Regarding overrides related to TRDs, there were slight increases in matches and over-classifications and a slight decrease in under-classifications. Figure 38 provides a line chart tracking TRD override usage by alignment type over the study period. This finding suggests that 70% of individuals in which this this override is indicated are staying longer, and the TRD override is needed less often over time.

Figure 38. Male TRD Override Custody Alignment by Month

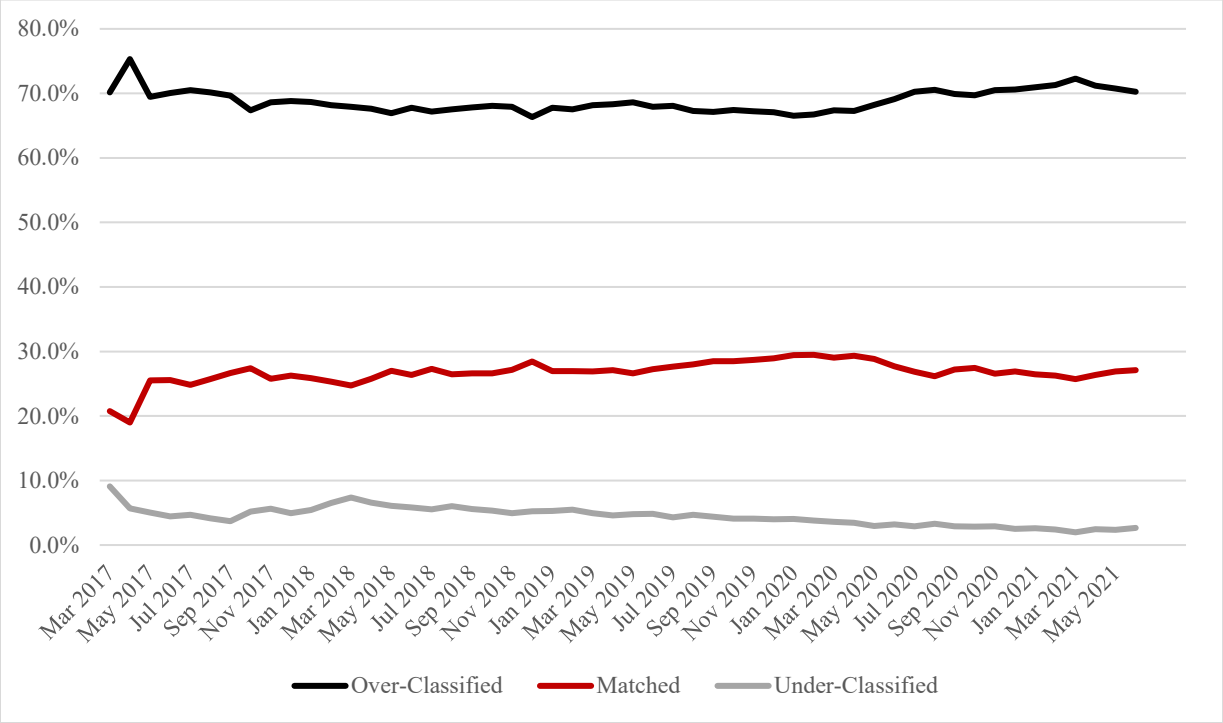
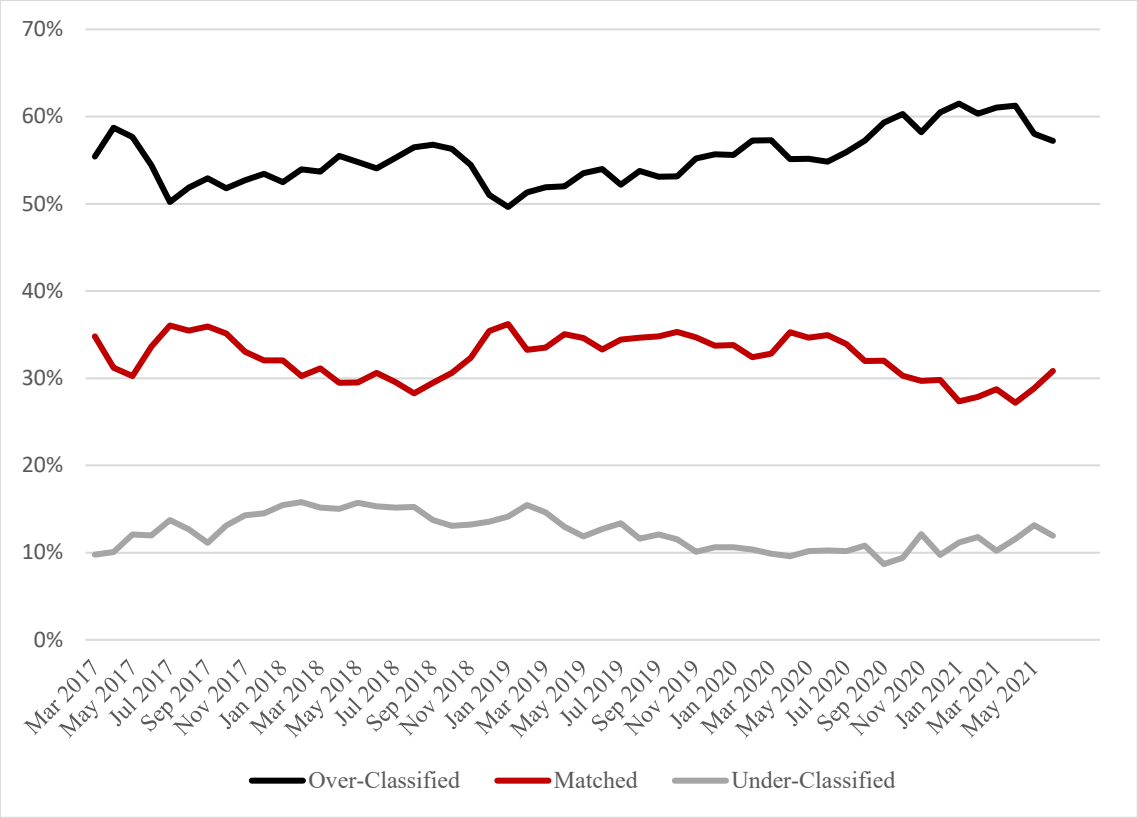


Figure 39 provides a line chart tracking 'Other' override usage by alignment type over the study period. For the discretionary override ('other' reason), beginning in July of 2017, we identified a near 10% increase in overclassified individuals. This effect is likely due to the changing population, where there were a greater proportion of individuals with longer terms nearing the end of their TRD (less than 5 years) and scoring as lower risk (i.e., minimum or community). However, with limited minimum and community custody space, an individual may have less than five years to serve but still possess more time to their TRD than others currently in a lower custody bed. Having described the TRD related override reasons, classification staff use the 'Other' override reason with greater frequency, as crowding increases and lower custody beds occupied. Thus, we see an increase in overclassified individuals where the discretionary 'other' override is used as ADP grew.

Figure 39. Male Override 'Other' Custody Alignment by Month



Deliverable 1 – Alignment Summary

As part of Deliverable 1, we analyzed NDCS population growth, misconduct risk, and alignment changes over time. Several notable and consistent findings were indicated. First, a 19-month increase in ADP was identified between September of 2018 and March of 2020. The ADP 'spike' was attributed to two related processes. First, the average time to release for the NDCS population has continued to increase, as a result of sentence enhancements for certain crime types. When the average duration of sentences is extended, so too is time to release, which, in turn, increases crowding. Second, a reduction in parole releases was observed during the 'spike'

period. The reduction in parole releases was both gradual and temporary but had a cumulative effect that added roughly 400 individuals to the NDCS prison population.

Therefore, while it was anticipated that additions to the design capacity would relieve crowding, we instead observe new beds being filled and returning NDCS to a similar state of crowding observed prior to CCL expansion. While the 'spike' might be considered modest, representing a 7% increase in ADP, it serves as an example of the *limited impact new facilities have on prison crowding*. This finding is consistent with staff responses provided in the process evaluation, where those with historical knowledge of the previous TSC expansion noted that crowding eventually surpassed facility expansions.

We further examined how the population changed as a result of crowding. Using risk of misconduct as a barometer, findings identified that risk for misconduct has been decreasing over time. Consistent with staff perceptions, the issues of crowding and overclassification are not universal and found to be greatest in three facilities –DEC/RTC1, NSP, and OCC. Further, these findings are consistent with prior reports, indicating that population is becoming older, more non-white, and more often incarcerated for a violent offense. In addition, sentence durations have grown, where *individuals are spending a greater proportion of their sentence at a custody level that is higher than indicated*.

Collectively, our findings indicate a need to relieve *bottlenecks occurring at lower custody levels* (minimum & community). Moving beyond the proposed facility outlined to replace NSP, the most recent Master Plan (2023) indicated the need to build a "second new facility, with the ability to house 1,300 males, by the year 2030". Using history as an indicator, we believe *an additional facility will not relieve crowding* and more likely expand the prison population, and NDCS will likely return to current crowding levels shortly thereafter.

DELIVERABLE 2 – MIXED CUSTODY IMPACT

Facility constraints often require correctional agencies to creatively address prison crowding with existing resources. As a result, correctional agencies may sacrifice best-practice for practicality, potentially housing individuals in less-than-ideal situations to account for bed space issues. For example, while the use of risk assessments and classification schemas to separate risk different risk levels are a best practice when selecting housing assignments (Austin & Hardyman, 2021), with limited space NDCS was forced to combine risk levels (i.e. maximum, medium, and minimum). Termed 'mixed custody', these units have greater management issues, as research has indicated that when individuals of different classifications are housed together, greater rates of violence and serious misconduct are observed (Bosma et al., 2020; Griffin & Hepburn, 2013; Steiner et al., 2014; Worrall & Morris, 2011). . Aware of these concerns, NDCS requested NCJR examine the impact of mixed custody assignments resulting from current crowding conditions.

Classification Importance

A consistent finding in misconduct literature is that security level is the most common predictor of violent misconduct (Bosma et al., 2020; Griffin & Hepburn, 2013; Steiner et al., 2014; Worrall & Morris, 2011). Classification levels represent the amount of security procedures needed to house a population with a particular likelihood of misconduct risk. The level of security an inmate needs is indicated by their classification assessment (Andrews et al., 1990; Austin & Hardyman, 2004; Fernandez & Neiman, 1998; Griffin & Hepburn, 2013). Individuals in high-security institutions pose the highest risk for prison violence, requiring an institution to be equipped to manage this severity of behavior. While individuals housed in a lower security institution pose less threat to security and can safely be housed in facilities with more freedom and a lower inmate-to-staff ratio. Aware of these concerns, NDCS requested NCJR examine the impact of mixed custody assignments resulting from current crowding conditions.

When classifying individuals, it is important to house them at the lowest level of security at which they can safely live (Austin & Hardyman, 2004; Bonta & Andrews, 2016). By appropriately separating individuals by security level, rehabilitation efforts (Bonta & Andrews, 2016) as well as overall prison management (Austin & Hardyman, 2004). However, one dilemma that correctional facilities may face is between mission-specific housing, the ideal, or bed-driven housing, which is more practical. Pure, bed-driven management practices maximize limited facility space by placing individuals in the first available bed regardless of the individual's risks or needs. This could mean the individual is better served in a residential program unit, or even a lower security level unit, but without an available bed, they are housed elsewhere. To limit problems with bed-driven housing, risk assessments and classification schemas are used to organize individuals by the risk of misconduct and programming needs (Hamilton & Kigerl, 2016). Using these schemas allows systems of corrections to keep Low-Risk individuals from being housed with those that are higher risk, consistent with common uses of the Risk-Needs-Responsivity model (see Bonta & Andrews, 2016). Yet, prison housing procedures is an understudied area of research, meaning departments may try to balance best practice with available resources (or bed-driven practices) without scientific knowledge of their eventual effects.

Risk Contamination

An important element of risk management is the potential contamination of lower risk individuals when introduced to higher risk individuals. Prior findings have shown that misconduct in the lower custody facilities increases when higher risk individuals are under-classified (Camp et al., 2003). Further, findings often show that when lower risk individuals are exposed to higher risk counterparts, the lower risk individuals possess an increased likelihood of misconduct (Damm & Gorinas, 2020). Although limited, there is evidence indicating that separating individuals by risk level is important for maintaining safety and order and promotes consistent promotion thought he system (Camp et al., 2003). In contrast, exposure to higher risk individuals may create stress that would not have been experienced without a mixture of housing risks.

Mixed Custody vs. True Custody

Following the process evaluation, we found that NDCS utilizes mixed custody units, housing multiple risk type a single security level. Specifically, Deliverable 1 findings indicated that nearly half of the NDCS population are housed in mixed custody units. These mixed custody units are the result of modifications to older facilities over several years, where remodeling efforts combined facility levels to meet department needs. Given the described issues with serious misconducts, administration officials expressed a concern regarding difficulties in managing mixed custody facilities, where true (non-mixed) custody facilities may improve management and reduce misconduct. To examine the extent and magnitude of these issues, misconduct trends were examined over time. Specifically, comparisons between true and mixed-custody units were examined to identify important distinctions.

Mixed Custody Evaluation

As part of our examination, NDCS requested NCJR to examine which type of custody represented the greatest risk of misconduct. With the understanding that a replacement facility for NSP is to be built in the near future, NDCS sought to understand the potential benefits of true custody units, by comparison to the anticipated adverse effects of mixed custody units. Specifically, we posed the question, *will a new facility, with greater capacity to implement true custody assignments, increase prison safety*? Given their outlined importance, it is first necessary to define custody types. Next, we sought to balance true and mixed custody groups to provide an equivalent comparison. We then analyzed misconduct rates by custody type.

Data

To examine unit type, we made use of the longitudinal dataset previously described. This sample also included misconducts recorded from 2017 through 2022. We then selected a subsample of individuals living in the mixed custody units and comparable true custody units in order to draw an effective comparison. All instances of individuals residing in other housing units/locations were removed from the data set. Using these criteria, a total sample of 5,646 individuals were selected.

Mixed Custody

We first defined the main predictor measure 'mixed or true custody'. Mixed custody housing units contain multiple levels of classification and comprise two types in the NDCS housing unit landscape – maximum and medium or medium and minimum. True custody represents housing units that contain only one type of custody: maximum, medium, or minimum. Table 13 provides a description of the facility and housing units included in the study sample.

Table 13. Facility Custody Composition Assignments

Composition	Facility	Housing Unit
Maximum True	TSCI	HU 2
Medium True	TSCI	HU 3
Minimum True	NSP	HU 7
Maximum-Medium Mixed	NSP	HU 2 + HU 3
Medium-Minimum Mixed	OCC	HU 1 + HU 2

Misconduct

The outcome variable was operationalized as 'guilty misconducts'. Misconducts are infraction behaviors that come to the attention of facility staff and a hearing is provided to determine guilt or innocence. For the current analyses, we measured misconducts dichotomously (no/yes) following an individual's classification assessment. However, because the duration between classification and reclassification assessments varies, we included an offset measure to account for exposure time differences between subjects[25].

We operationalized three types of misconducts, outlined by NDCS misconduct schema. Class 1, or serious misconducts, were broken into two sub-categories: violent and any. Violent misconducts included infractions where and individuals caused or threatened bodily harm to another person (most often assault). Non-violent misconduct included serious infractions that did not pose immediate bodily harm to another individual. However, these are still serious infractions as they can often lead to more violence if not addressed. For example, 'tattoo activity' misconduct, is often completed by gang members, with the potential that rival gangs view and respond with violent behavior, or additional misconduct. Class 1 infractions, both violent and non-violent, were incredibly rare in this sample. Class 2 misconducts are less severe, and less likely to be violent. Finally, Class 3 infractions are low-severity, or non-serious, misconducts. Class 3s represent rule breaking behaviors that violate facility codes of conduct but are not inherently illegal. To illustrate further, an example of a violent Class 1 infraction is a serious assault where an individual was seriously hurt. A Class 2 may have been a fight that broke out in the yard where no one was seriously injured. A Class 3 misconduct may be a yelling match between two incarcerated individuals, but neither actively attacked the other.

[25] We note that exposure time is the natural log transformed days an individual lives in a housing unit.

Balance/Control Measures

In addition, we included classification risk scores (violent, serious, and non-serious) as indicators to be used in statistical modeling procedures Further, individual's current offenses were included grouped into three types – violent, property, and drug – which were coded dichotomously and not mutually exclusive. Finally, we included demographic measures of age and race/ethnicity – White, Black, Hispanic, and Other.

Sample

In Table 14 we provide sample descriptive statistics. Most of our sample (67%) were between 20-39 years old. Forty-two percent of our sample are White and 40% are Black. About 30% scored high risk on the STRONG-R risk-needs assessment tool, but 84% scored low risk on the institutional classification risk tool. Individuals in our sample were most often incarcerated for violent offenses (73%). However, the offenses are not mutually exclusive, and an individual could have more than one type of offense. A large portion of the sample resided in some type of mixed custody housing.

Table 14: Descriptive Statistics (N= 5,646)

Variable	%
Individual Age	
Under 19 Years Old	1
20-29 Years Old	33
30-39 Years Old	34
40-49 Years Old	19
50-59 Years Old	9
60+ Years Old	4
Race/Ethnicity	
White	42
Black	40
Hispanic	12
Other	6
Classification Risk Score	
Violent	4
Serious	11
Non-Serious	2
Low Risk	84
Current Offense Type (not mutually exclusive)	
Drug	24
Property	50
Violent	73
Custody Composition	
True Maximum	8

True Medium	5
True Minimum	20
Mixed Maximum/Medium	37
Mixed Medium/Minimum	30
Misconduct Severity	
Class 1 Violent	4
Class 1 Any	23
Class 2 Any	3
Class 3 Any	3

Mixed Custody Analysis Plan

To complete the deliverable task, we compared Mixed to True custody units. Specifically, we provide several combinations, comparing True Maximum to a Mixed custody Medium-Maximum Unit, a True Medium to a Mixed custody Medium-Maximum unit, a True Medium to a Mixed Medium-Minimum unit, and a True Minimum to a Mixed Medium-Minimum unit. However, when comparing any two groups there were substantial differences that prevent an equal examination. For an ideal comparison, individuals would be randomly assigned to True and Mixed custody units. However, this is not feasible or ethically viable within a prison system. Due to current constraints within NDCS, true-comparison units were often in different facilities than their mixed custody counterparts. Therefore, statistical balancing procedures were used to create equitable comparisons.

To develop equivalent comparisons, we used a statistical balancing procedure known as entropy weighting (Hainmueller, 2012). This weighting process uses indicators that represent potential differences between groups. If left unadjusted, these differences may influence study findings, obscuring the true effect of custody type on misconduct. Balancing measures described were included in a statistical model to create the entropy weight. Groups were balanced on the study measures and a statistical weight was created. This weight is used as a filter through which additional analyses were computed. Once applied, the weight equates the two groups, simulating randomized assignment. To assess the efficacy of the balance, we compare individuals both pre- and post-weight on the indicated measures. As per industry standard, we use Area Under the Curve (AUC) metrics to assess model fit and identify item-by-item comparisons via Standardized Difference Tests (SDT). Further, we include the indicated measures as controls in subsequent analyses to provide a 'doubly robust' examination of group differences.

Following the development of the balancing weight, we next computed comparison analyses. Unlike a standard program evaluation, individuals are assessed via the classification tool multiple times (reclassification) and thus may move housing units over time. This creates a specific issue of 'clustering' where statistical modeling efforts must adjust for an individual representing multiple units of analyses. We used a mixture model procedure that accounts for said 'clustering' via a generalized binary logistic regression procedure. Specifically, a multi-level binary logistic regression model was computed. The unit of analysis represented the individual's classification assessment; where multiple assessments may be nested within a single individual,

thus creating a repeated measures analysis. A random intercept is computed to account for the repeated measures within an individual.

The statistical significance of each effect was computed for model coefficients (logits). To assess model fit, we computed the Bayesian Information Criterion (BIC). For model fixed effects, we computed logit values and associated probabilities to assess significance in their prediction of misconduct. To provide a magnitude of effect, we also computed odds ratios, where values less than 1 indicate the percentage of decreased odds of misconduct for the true custody group in a given comparison.

Mixed Custody Findings

To complete the deliverable tasked, we first assessed the rate of infraction behavior committed by custody type. Next, we completed the balance procedure and compared sample descriptives and fit statistics with and without the balancing weight applied. We then provide the results of the multi-level binary logistic regression models. For each of the four custody comparisons, we provide five models, one for each of the outlined misconduct outcomes. Hence, we present summary findings of 20 multi-level models.

In Table 15 we provide base rate descriptives for each study outcome, broken down by custody type. As expected, Max-True custody individuals commit a greater rate of infractions across severity types. Max/Med mixed custody have the second highest rates of infractions across Class type. However, Med and Min-True identify nearly the same rate of infractions as Med/Min mixed custody.

Table 15. Base Rates of Misconducts by Custody Type

Custody Type	Class 1 Violent	Class 1 Any	Class 2	Class 3
Max True	7%	24%	52%	64%
Med True	1%	5%	18%	30%
Min True	1%	9%	19%	27%
Max/Med Mixed	8%	22%	52%	50%
Med/Min Mixed	1%	3%	18%	29%

Entropy Balancing

Next, we created the entropy balance weight. The outline items were included and assessed for the ability to predict group assignments both before and after the weight was applied. Item-level comparisons were also made and assessed via Standardized Difference (STD) tests. Overall, the model identified a reduction in bias by a magnitude of 3%. Further, three items were identified to vary substantially prior to the development of the entropy weight. Specifically, the three classification risk scores differed by group, representing 25% of the items included. Following the application of the balancing weight, no substantial differences were observed between the groups, indicating an adequate balance of the groups and the functional utility in of the weight in additional modeling efforts. A table of the balance findings is provided in Appendix A.

Regression Findings

In Table 16, we provide summary findings from the mixed-effect binary logistic regression. As a reminder, these analyses were completed using the balancing weight to equate the samples, and 'exposure days' was included as an offset measure to adjust for variable follow-up durations. Further, models included indicators used in the balancing procedure, where more extensive model details are provided in Appendix B though E.

A relatively consistent finding is identified regarding custody type. Where mixed custody types identify greater rates of infraction behavior. Specifically, compared to those in a Mixed Custody (Maximum-Medium), those in the True-Max facility were significantly less likely to commit Class 1 Any and Class 2 infractions ($p<.001$). When examining the magnitude of the effect, we find those in a True-Max custody facility possessed 82% reduced odds of committing a Class 1 Violent, and 60% reduced odds of any Class 1 infraction when compared to those held in Mixed Custody (i.e., Max/Med).

Regarding Mixed Custody (Max/Med) we find those in the True-Med housing units were less likely to commit all four types of infraction behaviors ($p<.001$). Specifically, compared to Mixed Custody, those in True-Med possessed 77% reduced odds of committing a Violent Class 1 (OR = 0.23), 74% reduced odds of any Class 1 (OR = 0.26), 64% reduced odds of a Class 2 (OR = 3.91), and 37% reduced odds of committing a Class 3 infraction.

Regarding True-Med compared to Med/Min mixed custody, no significant differences were identified. However, when comparing to Mix Custody Med/Min, we find those in True-Min housing units were less likely to commit Class 2 infraction behaviors ($p<.001$). Specifically, compared to Mixed Custody, those in True-Min possessed 72% reduced odds of committing a Class 2 infraction (OR = 0.28).

Table 16. Mixed Effect Logistic Regression Model Summary

	Class 1 Violent	Class 1 Any	Class 2	Class 3
	OR	OR	OR	OR
Max vs. Max/Med	0.18***	0.40***	0.41	0.75
Med vs. Max/Med	0.23***	0.26***	0.36***	0.63***
Med vs. Med/Min	1.43	1.54	1.16	1.17
Min vs. Med/Min	0.84	0.48	0.28***	1.33

*** p<0.001, ** p<0.01, * p<.05

Overall, we find that TrueMax and TrueMed Custody facilities assist prison management and *reduce the occurrence of the most serious types of misconduct*. Further, albeit with less serious misconduct types, TrueMin custody was also found to significantly reduce the

occurrence of misconduct. However, it is important to note that not all outcome models identified significant custody differences, nevertheless all significant effects predicted in the anticipated direction. Overall, *true custody facilities were consistently found to be a safer and better practice than the mixed custody types.*

Deliverable 2 – Mix Custody Summary

While well-known in correctional research, risk contamination is not often discussed as a consideration for prison classification. Prison systems are designed to house individuals at differing security levels to help manage and minimize violence and other forms of misconduct. Notably, many corrections systems attempt to place individuals at the lowest custody level in which they can safely be housed. However, to provide proper placement, classification tools are used to specify risk types (violent, serious, & non-serious) and facilities utilize these security housing levels to reduce the likelihood of misconduct.

Due to persistent issues of crowding and facility space considerations, NDCS has commonly used mixed custody facilities. Using current estimates, nearly half of individuals are housed in some form of mixed-custody facility. Given this reality, NDCS administrators tasked NCJR to examine the impact of mixed custody housing. With a new facility outlined to replace NSP, NDCS sought to understand the potential safety benefits true custody could have. Specifically, we posed the question, *will a new facility, with greater capacity to implement true custody assignments, increase prison safety*?

Findings indicated that housing individuals in a Mixed Custody unit do increase the likelihood of misconduct. We found consistent evidence that when lower risk individuals were housed with high-risk counterparts, a greater likelihood of multiple infraction types was observed. Further, separating Maximum from Medium Custody reduced serious and violent misconducts, while separating Minimum and Medium Custody reduced less serious forms of misconduct. Thus, our findings *confirm risk contamination effects* are produced when multiple types of custody designations are housed together.

These findings have important consequences for the state and usage of NDCS facility space. In particular, with funding set aside for the NSP replacement facility construction, researchers agree with the noted design and advocate retaining True Custody housing units whenever possible. Further, administrators should consider the degrees of freedom currently available to adjust current housing unit schemas to create and move individuals to True Custody assignments in current facilities. Consistent with prior theoretical and community corrections findings, significant benefits are produced when custody designations are housed separately. Further, as staff suggested, when true custody units are utilized, classification promotion comes with additional freedoms that are more likely to motivate the individual to be adhere to facility rules and regulations, further reducing stress and improving facility management.

DELIVERABLE 3 – SHORT TIMERS

As discussed during staff focus groups, individuals with sentences short sentences create bottlenecks that the drive issues related to crowding and/or progression and promotion of NSCS supervised individuals. A primary target outlined by intake and community custody staff was a group of newly admitted individuals with less than a year until their Tentative Release Date (TRD). Specifically, staff indicated that these 'short timers' have insufficient time to fully benefit from community facilities and work release. Representing roughly 10% of the NDCS population, short timers may enter a community facility with the inability to make it to work release. Occupying one of the more coveted beds within the institution (i.e., community), short timers block the promotion of individuals serving longer sentences hoping to gain from extended periods on work release. Alternatively, short timers with very little time to serve (i.e., 1-2 months) may remain at intake (DEC/RTC1) for the entirety of their incarceration. Based on these early process evaluation findings, NDCS requested NCJR examine the impact of short timers on crowding and the system flow as a final Phase II deliverable.

While only recently examined, the concepts of short timers and their outcomes have been explored in recent years. Specifically, prior research has identified short timers as a major obstacle in efficiently classifying and transferring individuals within prison systems. In particular, empirical findings indicate these individuals create complexities for prison systems when bed and programming space is limited, requiring facilities to stretch their resources to accommodate the constant in- and out-flow of this population (Duwe & Clark, 2017). In 2017, Duwe and Clark identified the issue of short timers as having little opportunity to benefit from programming and services, resulting in many sitting ideally until their release. Termed 'warehousing' as a result of their extended period of idleness, these warehoused individuals possessed a greater likelihood of returning to prison.

Further, the quick turnover between intake and release of this population can cause congestion in system flow, resulting in needless transfers. In turn, transfers have also been shown to destabilize institutional and programming environments leading to greater misconduct (Kigerl & Hamilton, 2016; Toch, 1985). Moreover, short timers churn through the system at a much faster pace and may only have a chance to begin a program before being transferred or released. Cournoyer and colleagues (2007) found that 'treatment dropouts' negatively affect the program environment for all participants.

Alternatively, studies have shown that placing would-be short timers in the community avoids the consequences of warehousing and mitigates the complications surrounding custody management (Duwe & Clark, 2016; 2017). Further, providing programming and interventions in secure prison environments increases costs, whereas jail and/or community-based treatment can provide needed interventions with fewer resources (LeMasters et al., 2022 Morris, 2020), and make use of more ample facility spaces outside institutional walls (Taxman & Ainsworth, 2009). Finally, treating these individuals in the community frees up programming space for individuals convicted of more serious offenses who should be prioritized for the greater intensity interventions provided in a prison setting (Andrews & Bonta, 1990; Bonta & Andrews, 2016; Taxman & Ainsworth, 2009).

NDCS Short Timers

Specific to Nebraska's population, the Council of State Governments (CSG) was previously tasked with examining prison crowding as part of the Justice Reinvestment Workgroup. Discussed in their 2015 report, they identified a 50% increase in the short-term admissions between 2004 and 2013. They further estimated that, in 2013, the cost of housing these individuals were over $2 million (Council of State Governments, 2015). As such, short timers add to persistent overcrowding issues and place a strain on NDCS resources.

Further, staff interviews conducted during the Phase I process evaluation also identified short timers as a major "bottleneck," or an obstacle in efficiently promoting individuals toward early release. Often, short timers enter with less than six months to serve. When these individuals are admitted, then complete assessment and classification procedures, typically comprising 45 days, any attempt to transfer individuals out of the reception facility or place them in programming or work release is perceived as a waste of vital resources. As a result, they spend a substantial portion of their incarceration idle until release. The need to find bed space for short timers can further strain classification systems and lead to misalignment for individuals with longer sentences. This backlog not only prevents individuals from receiving needed programming and work release, but delays cause frustration and may reduce morale and overtime.

Lessons Learned

Notably the concept of short timers is not unique to Nebraska. Over the last decade many states have created both statute and policy-based solutions to reduce the system impact of short timers. As an example, departments of correction make use of county jails, either allowing individuals with shorter terms to transfer or remain in jail in their local area to serve the last months of their term. For example, both Texas and Pennsylvania have modified incarceration terms to allow individuals to *reside in a county jail for up to two years* of their sentence (Moll, 2012; Orrick & Vieraitis, 2018; McCoy & Miller, 2013; Hyatt et. al, 2011; Broscious & Javian, 2023). While there, individuals are permitted to participate in the shorter intensity programming more commonly offered in jail facilities and allowing individuals to leave during the day to participate in work release or community-based interventions.

As a reaction to pandemic requirements, several states attempted to further reduce their prison population by permitting individuals to serve time in the community. While previously utilized to a lesser degree, enacted in 2011, California expanded the use of community release via their Public Safety Realignment Act, using early release options such as electronic home monitoring (EHM) and allowing those that present minimal risk to the community to serve the remainder of their time at home (Lofstrom & Martin, 2015). A related method of reducing short timers influence was the extended provision of Early Release Time Credits (i.e., good time) by the Bureau of Prisons (BOP) as part of the First Step Act (FSA). Seeking to reduce the proportion of non-violent individuals incarcerated, FSA provided funding for the development of a risk assessment that would identify those individuals least likely recidivate and provide good time credits for completing programming and remaining infraction-free.

Therefore, while short timers represent a unique burden to the prison system, solutions have sought to 1) alter the facility in which they serve their time, 2) provide early release to those participating in programming and remaining infraction free, and 3) even allow individuals to serve a portion of their incarceration from their home. Removing short timers from the prison ADP has the potential to provide a sizeable dent to the crowding and delayed promotion processes experienced within some NDCS facilities. As one may anticipate, these alternatives are less expensive and likely to produce a sizable cost-saving when compared to prison incarceration.

Deliverable 3 – Short Timers

The final set of analysis (Deliverable 3) focuses on the potential effects of those with short NDCS sentences. As discussed, many of these individuals do not fit the mission of NDCS facilities, providing little opportunity for rehabilitative interventions and complicating interventions provided in community facilities. Following our process evaluation and collaboration with NDCS administration, we were tasked to explore the effects of short timers, and the potential impact on prison crowding were they to be removed from the current ADP. Specifically, we asked the research question – what is the extent and magnitude that short timers exert on the NDCS system?

Short Timer Evaluation

To answer this research question, we assembled sentence lengths, and time to release data for individuals entering NDCS facilities via new admissions and revocations. This deliverable primarily focuses on 1) describing the short timer population, 2) the impact that short timers have on classification promotions and early release, and 3) the ability to provide programming and interventions to this population. Finally, using data provided via the Master Plan (Dewberry, 2023), we identify the impact of short timer's removal from the ADP.

Data

To address the specification of the deliverable, we first assembled admission and release data necessary to define and compare short timers from non-short timers. This included an assessment of admission and release types. Demographic measures were also gathered to analyze unique characteristics of short timers, which included race, gender, and the county where their sentences originated. Individuals' duration of time spent at each facility was gathered as well as any records of transfer, which included information regarding days spent detained in county jail prior to admission. Finally, to examine differences in programming, data were gathered regarding the type and frequency of institutional programming provided. Knitting together the described data elements, an analyzable data set was constructed to track unique records included for everyone's admission and release. The resulting data set represented NDCS facility admissions from the study period of 2014 through 2021. We further examined admissions and releases cross-sectionally, identifying proportional changes across years.

Measures

Short timers were identified by subtracting their admission date from their tentative release date (TRD). Notably, the TRD accounts for anticipated good time, time served in county jail prior to NDCS admission, and parole eligibility. An individual was deemed a 'short timer' if the computed difference was less than one year. A dichotomous measure was coded for short timers, which allowed for the comparison of the two populations by demographics (i.e., age, race, & gender), admission and release types, institutional movements, and programming. Admission dates were used to track the prevalence of short timer admissions between 2014-2021. Programming was coded by type and indicated if an individual had received at least 1 day of institutional programming prior to their release date.

Short Timers vs. Non-Short Timers

Table 17 provides sample descriptive statistics. We note that short timers represent 10% of the NDCS average daily population but, due to their quicker churn through the system, they represent 48% of new admissions. Further, 19% of short timers enter the NDCS system via a parole revocation (i.e., 'parole violators'), and 2% via PRS returns. When examining race/ethnic differences, short timers were more frequently female (18%) and White (59%) in comparison to non-short timers. Short timers also scored out slightly lower risk by comparison to non-short timers on the IRA classification tool and relatively similarly on the STRONG-R recidivism assessment tool. However, comparative differences on demographic characteristics indicated relatively similar group proportions.

When examining current offense, short timers were more likely to have committed a drug offense (30% vs. 18%) and less likely to have committed a violent offense, in comparison to non-short timers (45% vs. 5%). Yet, when comparing programming received, short timer proportions were roughly half that of non-short timers. Further, short timers were more likely to enter NDCS via a parole revocation or PRS return than non-short timers.

Table 17. Descriptive Statistics of the Population (N=19,728)

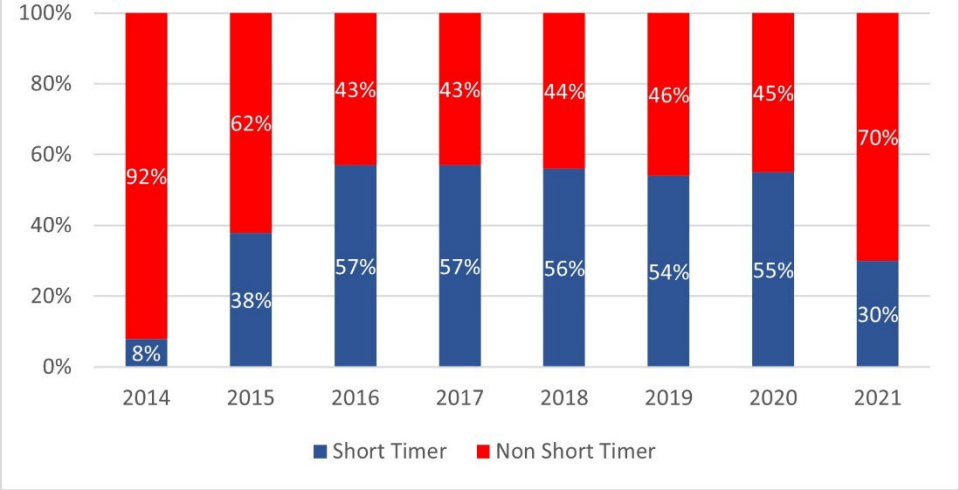
Measure	Short Timers (n=9,325)	Non-Short Timers (n=10,403)
Male	82%	90%
Race		
White	59%	55%
Black	23%	25%
Hispanic	16%	14%
Native American	5%	5%
Other	1%	1%
Current Offense		
Property	25%	23%
Violent	45%	58%
Drug	30%	18%
Other	30%	18%

IRA Levels		
Low	85%	83%
High Non-Serious	9%	6%
High Serious	3%	5%
High Violent	3%	5%
STRONG-R Risk		
Low	12%	11%
Moderate	18%	18%
High	70%	71%
Programming/Work Release		
Non-Clinical	16%	30%
Substance Abuse	14%	24%
Violence	<1	6%
Sex Offender	<1	3%
Work Release	13%	24%
Admission Type		
Initial Admit	79%	87%
Parole Violators	19%	11%
Return from PRS	2%	1%

Short Timer Trends

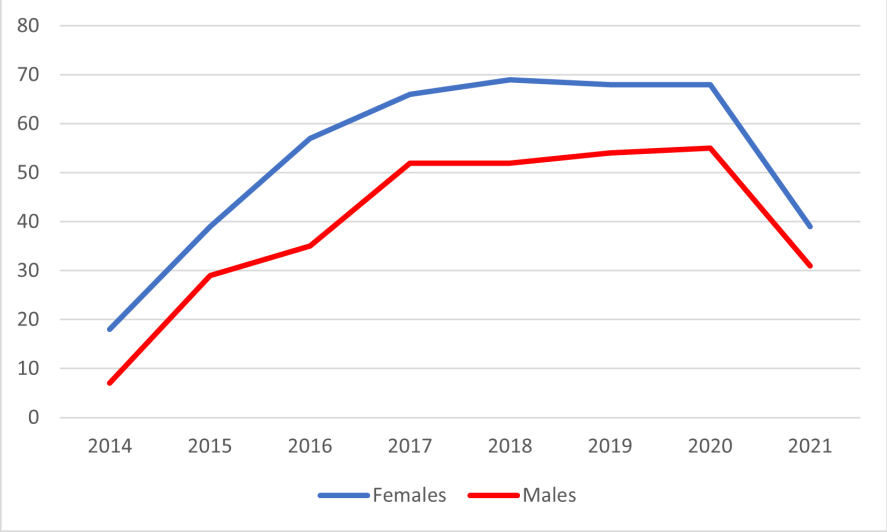
Next, we examined trend changes in short timer admissions over time. Figure 40 displays NDCS short and non-short timers' yearly admissions. Short timers accounted for 9,325 admissions into NDCS between 2014 and 2021, compared to 10,403 non-short timers. However, the proportion of yearly admissions that were short timers increased by 49% between 2014 and 2016, where short timers outnumbered non-short timer admissions during this five-year period. Out of all the short timers admitted between 2014 to 2021, 82% were admitted between 2016 and 2020. During this time, short timers comprised between 54-57% of yearly admissions. Due in part to court processing changes occurring during the COVID-19 pandemic, short timer admissions dropped by 25% in 2021. However, given recent ADP rebounds in 2023, it is likely that short timer proportions have increased returning to pre-pandemic levels.

Figure 40. Short Timer Yearly Admissions



Next, we examine short and non-short timers broken down by key demographics. Figure 41 provides the proportion of the female and male population admissions that were short timers. Females were more likely than males to have sentence lengths with less than one year. Short timers made up over 60% of all the female admissions between 2014 and 2021, compared to 45% of male admissions. Between 2014 and 2018, the proportion of female admissions that were short timers rose by 55%. During this same time, the proportion of male short timers rose by 45%.

Figure 41. Proportion of Short Timer Admissions by Gender



County of Origin

Following the process evaluation, staff perceived that short timer admission were likely unequally distributed by county of origin. Table 18 provides the percentage of admissions by county and short timer status. The counties with the highest proportion of admitted short timers, as a proportion of their population were Dakota (75%), Seward (70%), Dodge (61%) and Polk

(57%). Short timers made up less than half of those admitted into to NDCS for the rest of the counties. However, given the relative size of their county populations, 33% of all short timers were sentenced in Douglas County and 20% from Lancaster County.

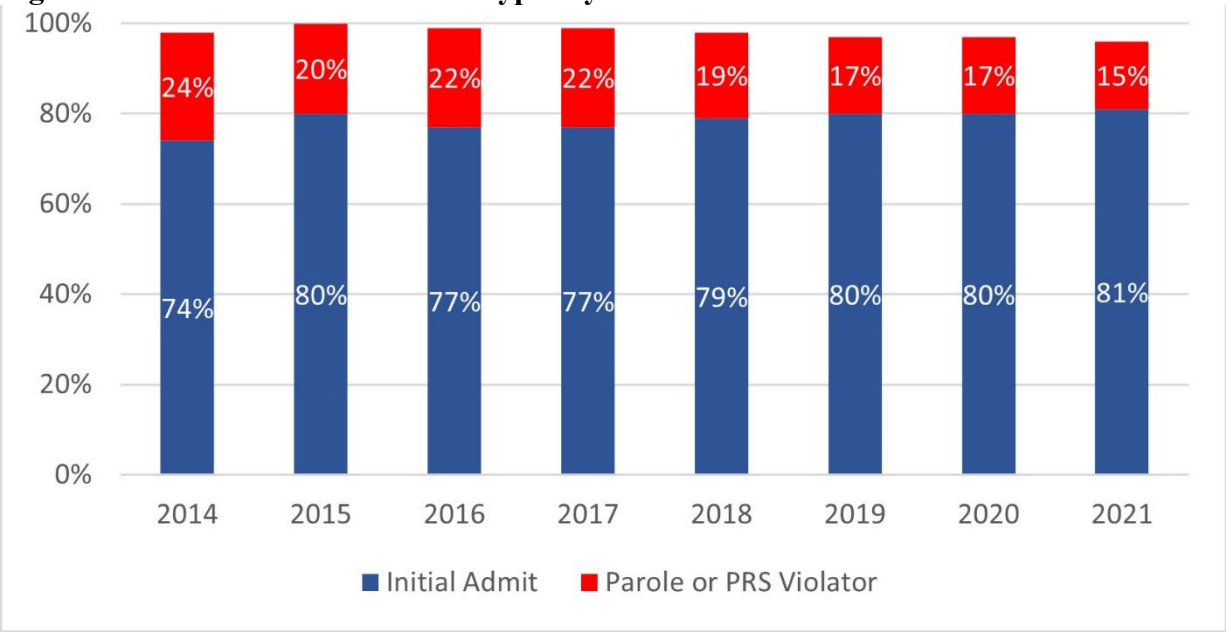
Table 18: Percent of Admissions by County and Short Timer Status (N=19,728)

County	Short Timers	% of all Admissions
Dakota	75%	2%
Seward	70%	1%
Dodge	61%	3%
Polk	57%	1%
Adams	49%	2%
Lincoln	49%	1%
Douglas	48%	33%
Hall	47%	5%
Saunders	47%	1%
Madison	43%	3%
Gage	42%	1%
Nance	42%	1%
Buffalo	40%	3%
Lancaster	39%	20%
All Other	*45%*	*23%*

Intake Characteristics

Those who were returned from post release supervision served around three months on average. The overall average length of stay for short timers in NDCS is slightly under six months. Short timers spend on average 87 days in DEC/RTC1, which is 6 more days than non-short timers spend on average in DEC/RTC1during their first year of incarceration. Conversely, short timers spend an average of 181 days (about 6 months) in NCW compared to non-short timers' average of 273 days (about 9 months) during their first year of incarceration. Further, short timers are also less likely to be housed on a cot. Out of those who are housed on a cot, short timers spend an average of three days less. This is likely due to short timers being prioritized for promotion. Further, as shown in Figure 42, the rate of initial short timer admission has increased slightly but remained relatively steady at roughly 80%.

Figure 42. Short Timer Admission Types by Year



Next, we examine the duration of months short timers spend in county jail versus an NDCS facility. A table of monthly durations by short timer type is provided in Table 19. For both initial admits and parole violator, roughly half of their sentence (six months) is served in county jail and half in an NDCs facility.

Table 19: Short Timer Average Number of Months by Admission Type (N = 9,325)

Admission Type	NDCS	Jail
Initial Admit	6	6
Parole or PRS Violator	5	5
Overall Average Number of Days	6	6

Another concern is the inability to provide adequate housing within an NDCS facility, due to a lack of bed space at intake (i.e., DEC/RTC1). For short timers, over half a month is spent on a cot at DEC/RTC1, which is roughly 10% of the NDCS proportion of their sentence. A total of 43% of short timers spend at least a day on a temporary cot.

Table 20: Short Timers on Cots (N = 9,325)

Cot Time	Ave. Days	% on a Cot
First Year Spent on Cot	17	43

Short Timer System Impact

Next, we examine the locations in which short timers were typically housed. Descriptive statistics of short timers by facility are provided in Table 21. As shown, a vast majority of short

timers were housed in five facilities, including the two intake facilities (DEC/RTC1 & NCW), two community facilities (CCL & CCO), and the Work Ethic Camp (WEC). This finding confirms staff perceptions voiced during the process evaluation, where individuals with less than a year to serve at admission either remain at intake, with a likelihood of being overclassified; or they may be transferred to one of the lower custody levels, potentially blocking the promotion of those at a higher custody designation, which, in turn, creates overclassification for those that are blocked. Further, it is surprising that facilities like NCY, NSP, OCC, and TSC also house a proportion of short timers. With little programming, or interventions that can assist short timers at these facilities, their placement may be the result of crowding and lack of beds available at community facilities, a finding voiced by focus groups in DEC/RTC1, where classification staff are sometimes forced to 'find any bed' given the consistent stress that crowding has on the NDCS system.

Table 21: Short Timers by facility(N = 9,325)

Facility	%
CCL	20
CCO	10
DEC/RTC1	31
LCC/RTC2	2
NCW	20
NYF	7
NSP	5
OCC	7
TSC	1
WEC	10

As discussed, there is concern that many short timers sit idle, never to be transferred out of the reception center. Table 22 shows the percentage of short timers that remain in DEC/REC1 for the entirety of their time in NDCS. We find that the proportion that remain at reception is substantial, ranging from 6% to 38%. Notably the proportion of individuals that remain at DEC/RTC1 has increased by 25% over the study period, peaking at 38% in 2021. Therefore, roughly a quarter of the population sit at reception, not able to receive work release and with limited access to programming.

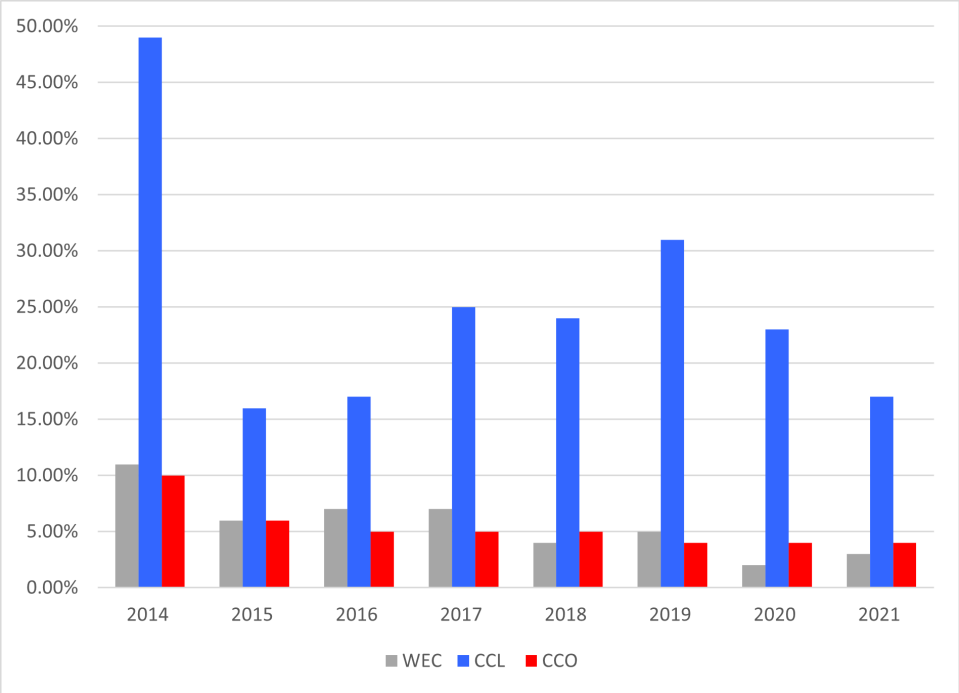
Table 22: Short Timers Remaining in DEC/REC (N=9,325)

Year	% Remain in DEC/REC
2014	13%
2015	6%
2016	18%
2017	20%
2018	26%
2019	24%
2020	27%
2021	38%

Avg..	23%

Next, we examined the distribution of short timers that are transferred to community or WEC. Figure 43 provides the proportion transferred to a facility outside of DEC/RTC. Of the short timers who were transferred, CCL receives the majority of short timers (23%), followed by CCO (5%) and WEC (5%).

Figure 43: Proportion of Transfers to Facilities (N=6,724)



Next, we examine the type of releases common for short timers. Release types, proportions, and duration until release are provided in Table 23. There was nearly an even split between those that jam out (43%) and short timers that receive PRS (49%). Notably, only 8% of short timers were granted parole. Further, those that were paroled, were retained for over 100 days longer than those that receive PRS and were retained 71 days longer than those that jam out. Given that the function of the parole board is to identify the individuals who have completed clinical treatment, relatively few short timers end up engaging the parole system. This may be an indication that an alternative process or needed for short timers than the typical NDCS experience.

Although nearly half of short timers who were released on supervision within two weeks of their parole eligibility date were released on PRS and returns from PRS comprised only 2% of short timer admissions between 2014-2021. Conversely, 19% of short timer admissions were parole violators. Those returning from PRS also spend significantly less time incarcerated. This is likely due to the Nebraska Statute 29-2268 specifying that violation of parole can result in a new sentence, resulting in lengthy stays of incarceration following return. The statute also specifies that individuals found to have violated conditions of PRS can only be incarcerated for

the remainder of time on their PRS sentence, and that jail time must be credited, and that this time can be served in county jail. This likely explains the reduced incarceration length. Finally, the statute outlines four methods of addressing PRS violations that do not result in incarceration. This final point may explain why few individuals return to NDCS for PRS violations as compared to parole violations.

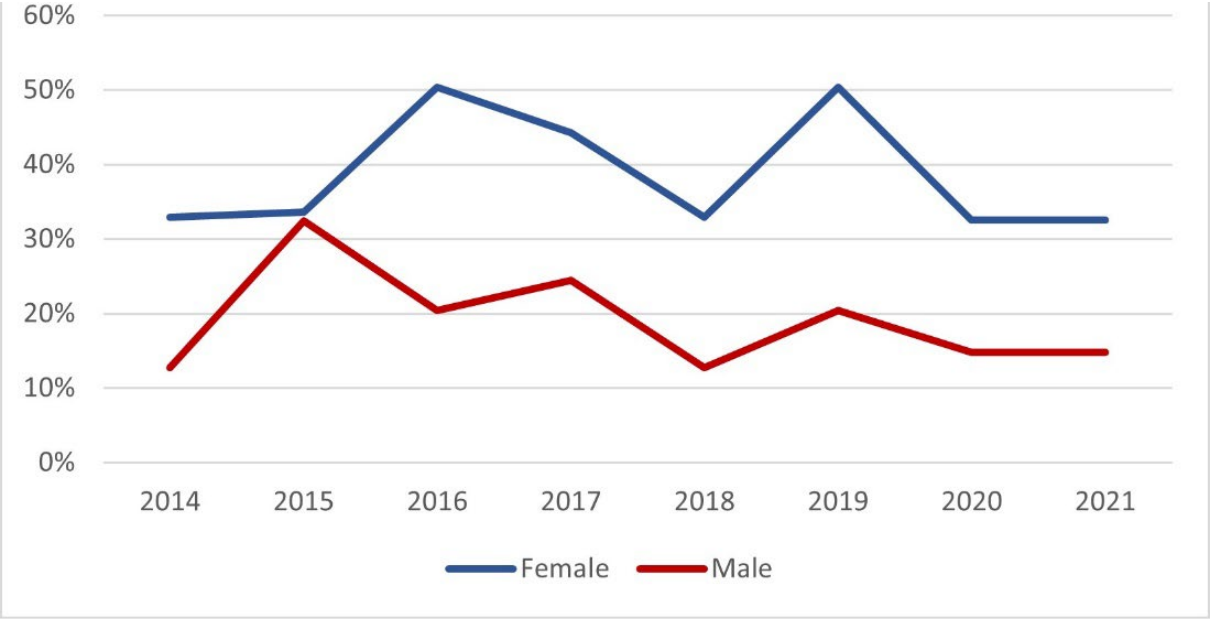
Table 23: Days to Release & Admission Type (12,432)

	Days to Release	Release Type %	Admission Type %
Jam Out/New Admit	173	43	79
Paroled	244	8	19
PRS	140	49	2

Short Timers & Programming

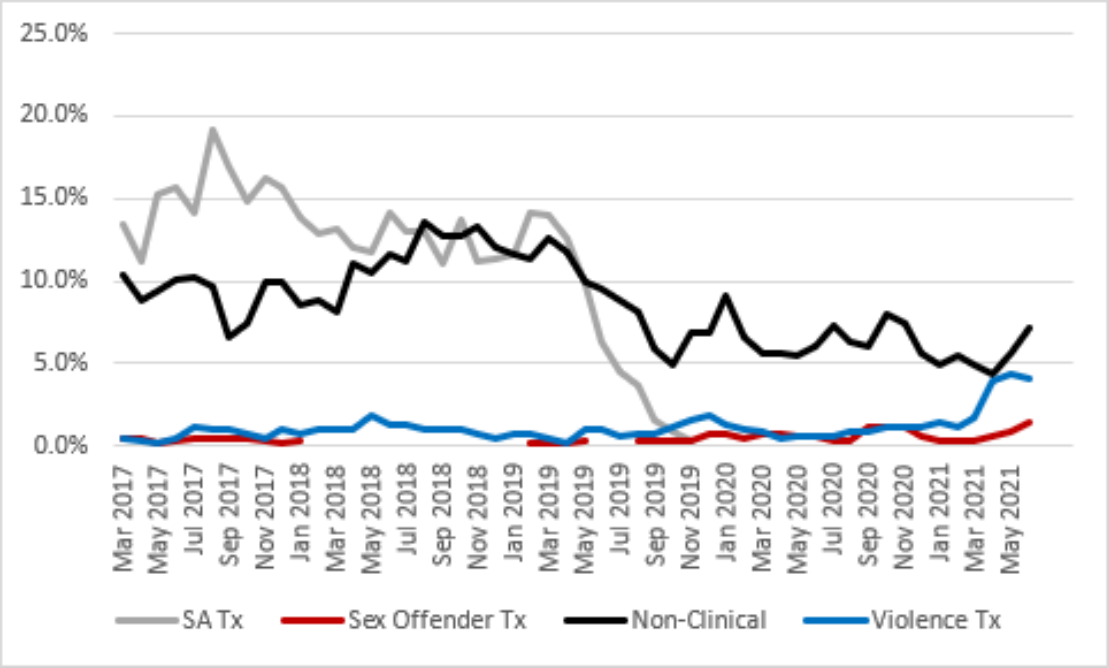
To further explore the interventions received by the short timer population, we examined the proportion that received programming and tracked these trends over time. Figure 44 provides a line chart of short timer receipt of program broken down by gender and year. As illustrated, short timers are less likely to receive any programming prior to release. This issue provides a distinctly different pattern by gender, where the proportion of female short timers who received treatment steadily rose between 2016 and 2019, before decreasing by 18% in 2020. However, the proportion of *male short timers who received treatment has steadily decreased since 2015*, where only 16% received any programming prior to release in 2021. Notably, 20% more female short timers received programming compared than males. These findings confirm staff perceptions, where short timers are not receiving programming during their term of incarceration due to 1) limited time to receive interventions, 2) a lack of short duration programming that would more feasibly fit their needs, and 3) when transferred, are commonly placed in community custody facilities that focus primarily on work release.

Figure 44. Male and Female Short Timers Who Received Programming



Further, the type of programming short timers receive has changed over time. Figure 45 presents programming for the short-timer population by month. As illustrated, we see that while Sex Offender and Violence Treatment programming were rarely provided during the study period, Substance Abuse Treatment programing was provided to this group up until March of 2019, when participation for short timers dropped to less than 1%. In comparison, while non-clinical programming was provided to short timers throughout the study period, the rate decreased 5% over time. This trend further confirms process evaluation findings, where short timers provide a distinct difficulty and have insufficient time remaining to receive programming and, in turn the proportion receiving programming has reduced over time.

Figure 45. Short Timer Programming by Month



Short Timer Removal

Finally, after investigating the short timer population, we draw from suggestions of prior research and state strategies that suggest this population is best housed in a county jail or provided an alternative to incarceration. Further, given current crowding issues, we explored the concept of removing short timers from the NDCS population.

Recently, Dewberry was contracted to provide a new facility Master Plan (2023), identifying crowding issues in NDCS and providing projections for facility expansions needed for the rising Nebraska prison population. Specifically, they provided the average daily population (ADP) of each facility in 2021. Crowding is measured using the design capacity (DC) of each facility, or the number of individuals a facility should house given both bed space and common areas (i.e., programming space, showers, cafeteria, etc.). The amount of 'crowding' experienced by each facility is computed by subtracting a facility's ADP from its DC. The percentage of crowding is computed by dividing the ADP by the DC. We provide ADP and DC figures from the Dewberry report in Table 24.

Extending these analyses, we have added the calculation of short timers as part of the 2021 ADP. Based on the proposed policy of removing short timers from the NDCS ADP, we provide a 'New DC Crowding' figure and an updated 'New Crowding %' in Table 23. We note that a 24% reduction in crowding is projected for CCL, a 26% reduction for CCO, and a 15% reduction in RTC[26]. Additional (smaller) crowding reductions would be observed at the

[26] We note that the Dewberry report (2023) combines ADP and DC total of LCC and DEC into the newly combined RTC facility, making it difficult to disentangle the reduction of crowding projected for intake (DEC) alone via the removal of short timers.

remaining facilities, with the total crowding reduction estimated at 10% via the removal of short timers.

While proposed only as a potential option, by removing short timers as a method to reduce crowding, based on the 2021 ADP the population would reduce to just over 5,000, which would reduce the NDCS ADP to the estimate suggested by CSG in their 2015 evaluation. Further, based on the Master Plan, Dewberry projects that NDCS will not only need to replace NSP in the upcoming years, but will also need to build additional capacity to account for continued population growth. However, if short timers are removed as a part of statute or policy, we would anticipate a continuous and relatively permanent reduction to the NDCS system, the size of which would represent *a population removal similar to that of a medium sized facility*. As a result, NDCS would potentially avoid the need to build another new facility and save millions in tax dollars in the process.

Table 24. Short Timer Impact on NDCS Crowding by Facility

Facility	ADP	DC	Current DC Crowding	Crowding %	Short timers in 2021	New DC Crowding	New Crowding %
CCL	589	460	129	128%	111	18	104%
CCO	176	90	86	196%	23	63	170%
RTC	1066	884	182	121%	126	56	106%
NCW	287	275	12	104%	57	-45	84%
NYF	72	76	-4	95%	4	-8	89%
NSP	1325	818	507	162%	77	430	153%
OCC	771	396	375	195%	47	328	183%
TSC	1057	960	97	110%	8	89	109%
WEC	189	100	89	189%	3	86	186%
Total	**5532**	**4059**	**1473**	**136%**	**456**	**1017**	**125%**

Deliverable 3 – Short Timer Summary

The yearly proportion of admissions that are short timers represents a functional issue for NDCS in terms of both providing adequate housing and rehabilitative services. As prior research has indicated (Duwe & Clark, 2017), these individuals are often 'warehoused', or sitting idol, increasing their likelihood to recidivate upon community reentry. Findings revealed that many short timers are retained in intake facilities for the duration of their term, where fewer resources are available. Further, many spend a substantial portion of this time on a temporary cot, waiting for a bed to become available.

Findings confirm that most NDCS short timers do not receive programming, and the programming that they do receive is less intensive and declining in usage since 2014. While most short timers are initial admits, they also commonly return from PRS or as parole violators. As indicated by NDCS staff focus groups, many short timers have their supervision revoked due to drug-related violations, suggesting that solutions may lie in treatment, not reincarceration.

It is notable that the population of short timers has grown over time. While only representing a small fraction of the population before 2014, their impact has increased steadily. Representing 10% of the NDCS population, short timers are often lower risk and therefore potential targets for decarceration efforts needed to combat current crowding issues experienced across the NDCS system. The current Master Plan (2023) findings indicate the NDCS system exceeds its design capacity by 135%. This creates both safety and potential humanitarian issues, as detailed in the most recent CJI report "Nebraska's Criminal Justice Crisis" (2023). As one strategy to reduce crowding and provide a more permanent solution, we *recommend removing short timers from NDCS facilities via placement in local jails or through alternatives to incarceration* (i.e., PRS or electronic home monitoring). We estimate a 10% reduction in the NDCS population, a shift on par with removing an entire facility-worth of people and potentially heading off the need to construct a second, new facility in the near term.

CONCLUSION

The current report provides the cumulative findings of both the Phase I process evaluation and Phase II quantitative examination of targeted issues pertaining to NDCS' ongoing prison crowding issues. In many ways, this report extends the prior works of outside contractors, similarly tasked with identifying root causes and solutions that combine to create the growing ADP and bed space limitations. The consistent theme of these collective works is that, in contrast to national trends, the NDCS prison population has continued to expand and created crowding rates above facilities' designed capacity for over two decades. Further recent prison population growth is not the result of increases in admissions and is instead caused by longer terms of incarceration and returns from community supervision.

NCJR's efforts dove further into the details of this recent period of growth, identifying the contributing influences of the ADP growth Spike identified from September 2018 through March of 2020. As a salient example illustrating the result of prison expansions, we detail how adding capacity to CCL did not result in reductions in crowding. Added space was quickly filled as rates of releases via parole slowed during this time. Corresponding with changes in sentencing characteristics and the use of PRS, the growth followed a common trend identified during the 'prison boom' era of corrections (Guetzkow & Schoon, 2015; DeMaio, 2001). Taking lessons learned from these and prior findings, NCJR sought to examine the impact and changes in the NDCS prison system during this time.

An analysis of prison population changes revealed that a small number of NDCS facilities shoulder a greater proportion of the effects of crowding. Prison population growth has substantially impacted NDCS reception facilities, often requiring the use of temporary beds (cots). While all other male facilities are operating over design capacity, there are few degrees of freedom in which to transfer and place individuals, restricting movement and classification promotions to lower custody levels. Further, because of limited facility space, NDCS has been forced to get creative with current resources, housing multiple security levels in Mixed Custody units. These Mixed Custody units create 'risk contamination' impacting the safety and day-to-day management for those housed in and the individuals supervising combined security units. Moreover, as the proportion of short timers has substantially increased during the last decade, both reception and community facilities house a large proportion of individuals that have too little time to program or participate in work release. This, in turn, bottlenecks transfers of non-short timers and prevents the optimal placement, progression, and promotion of individuals through the NDCS system.

Recommendations

A part of our project goal was to describe the potential need for an additional facility (as outlined in the Master Plan [see Dewberry, 2023]) and the type of resources needed. In this report we distilled a combination of findings to serve as recommendations for current legislative and NDCS facility considerations. *First*, our findings indicate that, as the average term of incarceration has increased, we observe a greater proportion of individuals eligible for promotion to lower custody levels, yet *crowding has substantially limited timely transfers*.

In combination with prior reports and staff perceptions, *resources at lower custody levels* and *alternatives to incarceration are currently a NDCS need*. We note that our analyses focused on changes in the NDCS population and do not discount the findings of the Master Plan, which identified structural deficiencies that require a replacement facility for NSP (Dewberry, 2023). Second, to improve both safety and create optimal rehabilitative spaces, it is recommended that NDCS continue with plans to *reduce and/or eliminate the use of Mixed Custody units*. However, current facility space is limited, which contributed to the need to create mixed custody housing units. Without methods of reducing sentence durations or increasing the number of prison releases, in time, it may be difficult eliminate mixed custody units, further creating management and misconduct issues.

Third, many states have reduced their prison populations, and in turn crowding, not by adding new facilities and beds but by reducing the number of individuals housed in state operated prisons. We recommend NDCS, in cooperation with the Nebraska State Legislature, *explore alternatives to incarceration and allow those serving shorter sentences to serve portions of their time in alternative locations* (i.e., local jails, home confinement, and/or early release). We anticipate that these alternatives will have a substantial and sustainable impact, reducing prison crowding and providing greater space and opportunity for rehabilitative interventions for those serving longer durations and possess a higher risk to recidivate.

A *fourth,* and final, recommendation concerns the ability to forecast future crises. In the last eight years, the Nebraska Legislature, Governor, and NDCS have commissioned reports from five separate external agencies. Each agency was tasked to provide an understanding and interpretation of the causes of prison crowding. Billed as a 'response to immediate crisis', each one has provided a report, representing a snapshot in time, that provides little in the way of a sustained focus to guide governing bodies away from further prison growth. Without an assigned entity to track and warn present and future stakeholders, there is a great potential for backslide and 'crisis response' reports on crowding in the near future.

Therefore, we recommend that planning and resources be provided to *create a monitoring and tracking system with the ability to forecast correctional trends and provide guidance to governmental bodies*. While many states have incorporated similar monitoring programs, a central authority with access to crime statistics is needed to create dashboards, host agency workgroups, facilitate communication, and direct strategic legislative and policy change. A monitoring and forecasting project of this magnitude requires mandated data sharing and a collaboration of Nebraska's law enforcement, courts, and correctional agencies. We recommended that the Nebraska Crime Commission, working with a collection of state agencies and researchers, create a system, or central hub, for this data driven solution. This system has the potential to 'flag' prison growth and other concerning trends, preventing future crises. Further, when new legislation or correctional policy is proposed, a well-tuned monitoring system can assist and forecast the effects of proposed legislation on NDCS and related correctional populations.

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Appendix Table A. Entropy Balance Findings

Measure	Mixed Custody Before M(sd)/%	True Custody Before M(sd)/%	Mixed Custody Before M(sd)/%	True Custody Before M(sd)/%
Age	3.26 (1.14)	3.10 (1.11)	3.10 (1.09)	3.10 (1.11)
IRA risk score				
Violent	151.64 (138.16)	193.37 (124.16)*	193.37 (146.63)	193.37 (124.16)
Serious	87.11 (68.64)	108.36 (65.18)*	108.36 (71.47)	108.36 (65.18)
Non-Serious	37.38 (48.84)	51.73 (47.18)*	51.73 (50.07)	51.73 (47.18)
Current Offense				
Drug	23.93	24.54	24.54	24.54
Property	50.64	50.21	50.21	50.21
Violent	67.59	76.05	76.05	76.05
Race/Ethnicity				
White	46.43	39.95	39.95	39.95
Black	34.43	43.18	43.18	43.18
Hispanic	13.22	11.17	11.17	11.17
Native American	4.10	3.66	3.66	3.66
Other	1.81	2.04	2.04	2.04
Model Fit				
Bias Direction		11.78		0.00
AUC tests		0.63		0.59

*SDT > 20

Appendix Table B: Max True Compared to Max/Med Mixed (N=2,563)

	Class 1 Violent		Class 1 Non-Violent		Class 1 All		Class 2		Class 3	
	Coefficient	OR (CI)	Coefficient	OR (CI)	Coefficient	OR (CI)	Coefficient	OR (CI)	Coefficient	OR (CI)
Fixed Effect- Max True	-1.73***	0.18 (0.09, 0.36)	-0.76***	0.47 (0.33, 0.66)	-0.93***	0.40 (0.29, 0.55	-0.88***	0.41 (0.30, 0.57)	-0.28	0.75 (0.56, 1.01)
Violent Risk Score	0.01***	1.01 (1.01, 1.02)	-0.36	1.00 (1.00, 1.01)	0.00***	1.01 (1.00, 1.01)	0.006***	1.01 (1.00, 1.01)	0.01***	1.01 (1.00, 1.01)
Serious Risk Score	-0.01	0.99 (0.98, 1.00)	0.01*	0.70 (1.00, 1.01)	0.01*	1.01 (1.00, 1.01)	0.013***	1.01 (1.01, 1.02)	0.01***	1.01 (1.01, 1.01)
Current Offense Violent	-0.75*	0.47 (0.24, 0.94)	-0.36	1.01 (0.48, 1.01)	-0.28	0.76 (0.53, 1.08)	-0.19	0.82 (1.00, 1.01)	-0.20	0.82 (0.58, 1.16)
Current Offense Drug	0.35	1.42 (0.72, 2.81)	0.14	1.15 (0.81, 1.63)	0.17	1.19 (0.85, 1.66)	-0.46**	0.63 (0.46, 0.88)	-0.24	0.80 (0.57, 1.11)
Current Offense Property	-0.03	0.97 (0.56, 1.66)	-0.28	0.76 (0.56, 1.01)	-0.09	0.91 (0.69, 1.2)	-0.23	0.80 (0.61, 1.03)	-0.11	0.90 (0.69, 1.17)
Offset Variable: Exposure Days	0.04	1.04 (0.85, 1.28)	0.92***	2.50 (2.11, 2.95)	0.70***	2.02 (1.76, 2.32)	0.95***	2.58 (2.26, 2.94)	1.08***	2.95 (2.58, 3.36)
Variance of Random Effect	15.72		2.46		2.26		2.54		2.12	

***p<0.001, ** p<0.01, * p<0.05

Appendix Table C: Med True Compared to Max/Med Mixed (N=2,388)

	Class 1 Violent		Class 1 Non-Violent		Class 1 All		Class 2		Class 3	
	Coefficient	OR (CI)	Coefficient	OR (CI)	Coefficient	OR (CI)	Coefficient	OR (CI)	Coefficient	OR (CI)
Fixed Effect- Med True	-2.30***	0.24 (0.13, 0.55)	-1.39***	0.25 (0.14, 0.45)	-1.36***	0.26 (0.15, 0.44)	-1.01***	0.36 (0.24, 0.56)	-0.47*	0.63 (0.44, 0.90)
Violent Risk Score	4.72***	1.00 (1.00, 1.01)	0.00*	1.00 (1.00, 1.01)	0.00**	1.00 (1.00, 1.01)	0.00*	1.00 (1.00, 1.00)	0.00**	1.00 (1.00, 1.01)
Serious Risk Score	6.50***	1.01 (1.00, 1.01)	0.01***	1.01 (1.00, 1.02)	0.01***	1.01 (1.00, 1.01)	0.02***	1.02 (1.01, 1.02)	0.01***	1.01 (1.01, 1.02)
Current Offense Violent	4.54***	1.57 (1.57, 1.58)	-0.32	0.73 (0.50, 1.07)	-0.24	0.79 (0.55, 1.12)	-0.08	0.92 (0.66, 1.29)	-0.09	0.91 (0.67, 1.24)
Current Offense Drug	-2.90***	0.75 (0.75, 0.75)	-0.02	0.98 (0.67, 1.45)	-0.02	0.98 (0.69, 1.41)	-0.44**	0.64 (0.46, 0.90)	-0.24	0.79 (0.58, 1.07)
Current Offense Property	-6.94***	0.93 (0.93, 0.93)	-0.59***	0.55 (0.40, 0.76)	-0.41**	0.66 (0.49, 0.89)	-0.36**	0.70 (0.53, 0.91)	-0.26*	0.77 (0.60, 0.99)
Offset Variable: Exposure Days	-2.66***	0.77 (0.77, 0.77)	0.59***	1.08 (1.54, 2.11)	0.42***	1.52 (1.33, 1.74)	0.72***	2.06 (1.81, 2.35)	0.80***	2.23 (1.97, 2.52)
Variance of Random Effect	57.12		2.28		1.90		1.73		1.23	

***p<0.001, ** p<0.01, * p<0.05

Appendix Table D: Med True Compared to Med/Min Mixed (N=1,982)

	Class 1 Violent		Class 1 Non-Violent		Class 1 All		Class 2		Class 3	
	Coefficient	OR (CI)	Coefficient	OR (CI)	Coefficient	OR (CI)	Coefficient	OR (CI)	Coefficient	OR (CI)
Fixed Effect-Med True	0.36	1.43 (0.12, 17.55)	1.08	2.96 (0.64, 13.57)	0.43	1.54 (0.23, 10.14)	0.15	1.16 (0.68, 1.97)	0.15	1.17 (0.80, 1.70)
Violent Risk Score	0.01	1.01 (0.99, 1.03)	0.01*	1.01 (1.00, 1.02)	-0.00	1.00 (0.98, 1.01)	0.00***	1.00 (.99, 1.01)	0.00***	1.00 (1.00, 1.01)
Serious Risk Score	0.00	1.0 (0.97, 1.04)	-1.24	0.98 (0.96, 1.01)	0.02	1.02 (1.00, 1.05)	0.02***	1.02 (1.02, 1.02)	0.01***	1.01 (1.01, 1.02)
Current Offense Violent	-1.38	0.25 (0.02, 3.12)	-0.02	0.29 (0.06, 1.34)	0.54	1.71 (0.23, 12.60)	0.19	1.20 (0.74, 1.95)	0.13	1.14 (0.79, 1.64)
Current Offense Drug	-0.63	0.53 (0.03, 10.46)	0.25	1.29 (0.21, 7.84)	-0.57	0.56 (0.07, 4.63)	-0.56*	0.57 (0.36, 0.92)	-0.03	0.97 (0.67, 1.42)
Current Offense Property	-0.72	0.49 (0.04, 6.46)	-0.47	0.62 (0.16, 2.47)	-2.40**	0.09 (0.02, 0.53)	-0.78***	0.46 (0.31, 0.67)	-0.33*	0.72 (0.52, 0.99)
Offset Variable: Exposure Days	-0.18	0.83 (0.35, 1.98)	-0.19	0.82 (0.51, 1.34)	0.09	1.09 (0.64, 1.87)	0.98***	2.66 (2.08, 3.41)	0.94***	2.57 (2.12, 3.12)
Variance of Random Effect	16.22		77.55		142.5		3.47		1.70	

***p<0.001, ** p<0.01, * p<0.05

Appendix Table E: Min/True Compared to Med/Min Mixed (N=2,783)

	Class 1 Violent		Class 1 Non-Violent		Class 1 All		Class 2		Class 3	
	Coefficient	OR (CI)	Coefficient	OR (CI)	Coefficient	OR (CI)	Coefficient	OR (CI)	Coefficient	OR (CI)
Fixed Effect-Min True	-0.17	0.84 (0.12, 6.03)	-1.57	0.21 (0.04, 1.11)	-0.73	0.48 (0.04, 1.11)	-1.28***	0.28 (0.14, 0.56)	0.28	1.33 (0.90, 1.97)
Violent Risk Score	-0.00	1.00 (0.98, 1.02)	-1.85	1.00 (0.99, 1.01)	0.007	1.01 (0.99, 1.01)	0.01**	1.01 (1.00, 1.01)	0.01 ***	1.01 (1.00, 1.01)
Serious Risk Score	0.01	1.01 (0.08, 8.40)	-5.89	0.99 (0.97, 1.01)	-0.01	0.99 (0.97, 1.01)	0.01	1.01 (1.00, 1.02)	0.014***	1.01 (1.01, 1.02)
Current Offense Violent	-0.22	0.80 (0.98, 1.05)	-1.27*	0.28 (0.09, 0.91)	-0.70	0.50 (0.09, 0.91)	-0.84*	0.43 (0.23, 0.82)	-0.13	0.88 (0.58, 1.33)
Current Offense Drug	-1.34	0.26 (0.01, 5.01)	-5.36	0.58 (0.12, 2.81)	0.068	1.07 (0.12, 2.81)	-0.35	0.70 (0.35, 1.40)	-0.48*	0.62 (0.39, 0.98)
Current Offense Property	-1.05	0.35 (0.04, 3.03)	-1.61*	0.20 (0.05, 0.85)	-0.97	0.38 (0.05, 0.85)	-1.07***	0.34 (0.18, 0.64)	-0.75***	0.47 (0.31, 0.70)
Offset Variable: Exposure Days	-0.37	0.69 (0.33, 1.42)	5.57*	1.75 (1.07, 2.84)	0.95***	2.59 (1.07, 2.84)	1.48***	4.38 (3.13, 6.13)	1.28***	3.61 (2.88, 4.51)
Variance of Random Effect	31.67		101.5		284.8		54.55		8.03	

***p<0.001, ** p<0.01, * p<0.05

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