

DELAWARE COUNTY COALITION FOR PRISON REFORM

Proposal for Protection Without Restriction

Introduction

The Delaware County Coalition for Prison Reform is a diverse group of citizens from all corners of our county who organized to end the inhumane conditions within the George W. Hill Correctional Facility. While the goal was clear, the path was tedious. We found ourselves facing the political morass which had enable private contractors to take our tax dollars and mistreat our citizens. Through focused and constant efforts, we replaced the politically connected Board of Prison Inspectors with a modern Jail Oversight Board, saw an entirely new County Council take office, and finally returned our jail to full county control and public oversight. We welcomed a new and forward-thinking warden and her staff who immediately implemented many of the changes we demanded, and we now enjoy a partnership that gives the citizens of Delaware County a true voice on behalf of our family members and friends who are housed inside the jail. Today, we add this proposal to the one we submitted in March of 2020.

The population of our jail is not homogeneous. Aside from the male and female split, we house people across a wide age range, of all ethnic backgrounds, of diverse sexual identities and with criminal charges of every nature. While individualized classification can and should take all of these factors into account, the jail has not taken the more effective step of creating enough specialized housing units. We currently have separate housing for females (as a group), adolescents (as required by law) and a “protective” unit for adult males with a variety of concerns.

The different housing units were inherited from GEO Group, which leads us to the obvious conclusion that – like everything else – it was the bare minimum and was aimed at making their job easier and their bottom line more profitable. Fourteen months later, we should be moving beyond this basic paradigm. While efficiency and ease of management are worthwhile, the overarching goal must be to care for our residents and this care must result in equity amongst the residents. The recent arrest of former President Trump illustrated how our criminal justice system can be kind, flexible and humane.

In making these recommendations, we do not presume to detail how these things would be done, nor do we pretend to fully understand the financial and other resources which would be needed. We do believe, however, that these are reasonable ideas, backed by either research, practices in use else-

When protection is attained by restriction, we are punishing people for who they are rather than what they have done. Restriction or the removal of privileges is a disciplinary action which should only be triggered by misconduct.

¹ <https://www.prearesourcecenter.org/sites/default/files/library/PREA-Audit-Process-Map-Prisons-and-Jails-2020-08-03.pdf>

² http://www.aca.org/aca_prod_imis/Docs/Standards%20and%20Accreditation/Agency%20Manual%20of%20Accreditation%20Policy%20and%20Procedure%20April%202015.pdf

³ <https://www.cor.pa.gov/Facilities/CountyPrisons/Pages/Inspection-Process.aspx>

⁴ <https://www.cor.pa.gov/Facilities/CountyPrisons/Pages/Inspection-Schedule,-Statistics-And-General-Info.aspx>

⁵ Phoenix Management Report to the former Delaware County Board of Prison Inspectors, March 29, 2019, at 5.

where or just common sense. And while they may appear simple to many, those with a working knowledge of life inside a jail can readily attest to the value of each idea proposed below.

The Existing Protective Arrangement

One side of the Special Management Unit (SMU-A) houses adult males who present some need for extremely close supervision. These include severe disciplinary infractions and major mental health cases. On this unit, the individuals are housed singly (i.e., solitary confinement) and routinely leave their cells only for showers. If phone privileges are permitted, the phone is brought to the cell door. In classic vernacular, this is “the hole”.¹ Sadly, this unit has been used for protective purposes, essentially punishing a resident for who they are rather than what they have done.

Currently GWHCF has one dedicated housing unit for adult males who are deemed vulnerable by virtue of their offenses, special physical conditions or gender identity. Not everyone who meets any of these criteria is housed there; some of these men are in the general population, either by choice or because the jail deems the risk acceptable. The jail has no comparable separation ability for females. The jail separates those under the age of 18 as required by law.²

Residents of the existing protective unit have no access to most of the privileges afforded to those in the general population. They do not have access to the gym or to religious services. Because they can only leave their housing unit under escort, every movement is contingent on an officer being available to serve as the escort. This removes the limited freedom that other residents enjoy. The same are true of our small adolescent population. They are essentially locked into a small housing unit 27/7/365. The environment feels restrictive even to visitors.

Punishment – whether intentional or coincidental – should never occur due to a person’s status. In fact, our Supreme Court said as much as far back as 1962, holding that punishment for status offends the 8th Amendment protections.³ While the parallel is not complete, the practice of *protection through restriction* creates a serious inequity which certainly brushes close to the broader concerns of cruel and unusual punishment.

Examples

We have focused our proposal on four specific groups housed within the fences of our jail. As we endeavor to make our jail a prototype for county corrections in the Commonwealth, this list could certainly expand. Today, we highlight specific incidents and observations to illustrate the need for more specialized housing.

¹ Merriam-Webster: a prison cell where a prisoner who is being punished is kept alone : solitary confinement, as in “He spent a month in *the hole*.”

² The unit houses males. We are not aware of the jail’s plan in the case of an adolescent female commitment.

³ *Robinson v. California*, 370 U.S. 660 (1962) (expanding the reach of the Eighth Amendment by finding punishment for an individual’s status to be “cruel and unusual”).

A

Shortly after GEO departed, a 52 year-old man was brutally murdered by his young cell-mate. It's difficult to imagine a more horrifying experience than being slowly strangled to death. It's easy to rationalize that both men were criminals, that lawlessness accompanies them into jail, and that jails are never safe. But our clear concern is that older persons often cannot protect themselves from younger persons and the jail cannot totally protect anyone. Classifying prisoners without substantial regard for their age can be a fatal practice.

B

More recently, a transgender person was placed in SMU-A for her own protection. Unlike the example above, this was overkill. The SMU is the worst place in the facility. Each person is isolated in a cell which lacks the amenities of general housing cells. Their time out of these cells is nearly non-existent. The persons housed here are also stigmatized. They are escorted to appointments and visits in shackles and those shackles are not removed at the destination.⁴ Perhaps this could be justified by an individual's violent misconduct in the facility, but it cannot be justified by a person's sexual identity. It may even rise to the level of violation of civil rights.

C

The current male protective unit (Unit 8C), is self-contained. The men on this unit leave only for appointments and visits, and then only under escort. While they enjoy access to outdoor recreation comparable to other units, they do not have access to the gymnasium or religious services.⁵

D

Finally, we house adolescent males who have been direct-filed in adult court. These teenagers are confined to the other half of the SMU (SMU-B). To leave this unit, they must be under escort, so they hardly ever leave. The unit lacks every amenity available to adult residents save a large television on the wall and a phone. We are required by law to separate these youth from the adults in the jail, but that should not lead to deprivations.

The Special Populations.

Older residents and those special medical needs

There is a substantial number of adult males who are older, defined as age fifty and above.⁶ This age derives from the fact that the majority of persons entering the criminal justice system are less healthy than their counterparts in the community. It is generally accepted that prisoners have a biological age ten years in advance of those who are not incarcerated. Prisoners have typically led less-healthy lives and have higher rates of cardiac disease, diabetes, hepatitis C and other chronic conditions than the general population. There are also the undeniable stress and harmful effects of incarceration itself. These conditions typically lead to diminished abilities to function safely in the correctional setting.

⁴This person was kept in shackles for two Official Visits with the Pennsylvania Prison Society even though the visit was in a non-contact "cage".

⁵One resident reported to the Prison Society that the prison chaplain occasionally comes to the unit but there is no opportunity to attend services or participate in other religious programs. For example, this Catholic resident had no access to the sacraments.

⁶United Nations Office on Drugs and Crime (UNODC), Handbook on Prisoners with Special Needs, New York, 2009.

According to Human Rights Watch, from 2007 to 2010, the increase in the elderly population, 65 and up, being sentenced to state and federal prison outpaced the increase in the total population by 94 to 1.⁷ In fact, the incarceration admission rate for males over the age of 54 is more than three times that of males under the age of 18.⁸ The more significant influence has been the “get tough on crime” mentality which has led to three-strike laws.⁹

These men begin their incarceration through county jails such as ours. Given the heavy-handedness of our county’s bail system, they are likely to be held from day of arrest to sentencing and even beyond. Ironically, the strongest counter-arguments to removing older individuals from the general population have been that the jail benefits from the calming effect older men can have on their younger counterparts (entirely self-serving) and that segregation automatically leads to loss of privileges (protection by restriction).

Adolescent residents:

A minor of any age will be charged as an adult for murder. A minor at least fifteen years of age may be charged as an adult for rape, IDSI, aggravated assault, robbery, robbery of a motor vehicle, aggravated indecent assault, kidnapping, or voluntary manslaughter if the minor uses a deadly weapon.^{10,11}

While the rate of such charging has decreased since 2009,¹² we still maintain a single-digit presence of adolescents in our jail, either committed by judges in Delaware County or housed on behalf of other counties.

Those under the age of eighteen must be separated from adults.¹³ Clearly, the best way to achieve this goal is to house them in a dedicated youth facility, however where the AHJ opts to house them in the adult facility, they must be on a separate unit. Further, when off their unit, “sight and sound separation” or direct staff supervision must be maintained. This has resulted in the terrible situation where our youngest residents are essentially confined to a small area which lacks every resource available to the adults. This “small space” environment is detrimental to their physical, mental and emotional well-being.

⁷ <https://www.hrw.org/report/2012/01/28/old-behind-bars/aging-prison-population-united-states>

⁸ US DOJ, BJS: National Corrections Reporting Program: Most serious offense of state prisoners, by offense, admission type, age, sex, race, and Hispanic origin. See data for 2009 to view admissions by age.

⁹ Elderly Inmates Burden State Prisons, Pew Trusts, March 17, 2016, at <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/03/17/elderly-inmates-burden-state-prisons>.

¹⁰ See 42 Pa.C.S.A. § 6302 for the list of offenses which are not considered juvenile delinquent acts and thus are transferable to adult court.

¹¹ An effort to end direct filing failed to reach the floor of the legislature in the last term. SB 1240 of 2022. The effort has yet to be renewed in this legislative term.

¹² The Pew Charitable Trust found that the number of youth in Pennsylvania charged as adults decreased from 752 in 2009 to 332 in 2018 (56%). Of those 332, 267 were direct file and the remainder were transferred from juvenile courts. Juvenile Justice Task Force Update: September 30, 2020. <https://jlc.org/news/juvenile-justice-task-force-update-september-30-2020#>.

¹³ Prison Rape Elimination Act, Standard § 115.14.

Gender and Sexual Minorities:

In the United States, LGBTQ individuals are incarcerated at a higher rate than the general population.¹⁴ Compared to the general population, same-sex attracted persons are more likely to remain in the closet while in jail even if they were openly gay in their communities. The reason is obvious: incarcerated persons who are known or believed to be gay or bisexual face a very high risk of sexual abuse.¹⁵ The Prison Rape Elimination Act (PREA) originated from *Farmer v. Brennan*.¹⁶ Dee Farmer was a transgender (M-F) person housed in a male facility who was sexually assaulted and exposed to HIV.

Some AHJs and other nations have adopted the practice of housing LGBTQ persons in special units, either on a voluntary basis or the facility's risk-assessment or both. In the US, as much as 85% of LGBTQ incarcerated persons report being held in solitary confinement settings, which we know can be devastating. Gender identity, like age, is a status and not a misbehavior. Removing privileges to afford better protection is unjust.

Special Criminal Cases:

It is safe to presume that every county jail provides for protective housing of those charged with certain offenses, mainly sexual crimes. In Delaware County, the old jail eventually partitioned a small end of one housing block for these men. The men on this section were denied almost every privilege. Meals were delivered to them while those in GP ate in the chow hall. They rarely had access to the outdoor recreation space. They could not attend religious services or go to the library. It was, in almost every sense, a tiny step better than the maximum security unit.

Placement in that unit was an ordeal unto itself. One former resident described being removed from a GP unit when his case became known. He was handcuffed and "perp-walked" in a manner which exposed him to numerous assaults as he passed along the doors to the cells. He was then placed in a cell on the maximum security unit (comparable to Unit 10C of GWH). While everyone else was out of their cells for recreation, he was trapped behind the bars. He described the virtual shooting gallery he endured while officers turned a blind eye. The ordeal lasted several days until his attorney intervened.

This illustrates not only how some individuals can be vulnerable or the level of inhumanity which some prisoner will show towards others, but also how the staff can exacerbate the problem.¹⁷ Sadly, even prison staff cannot always contain their own personal feelings towards those in their custody, but the undeniable fact is that they *must always* care for everyone in their custody and the facility must not punish anyone solely on the basis of the charges for which they stand committed, and this includes imposing restrictions.

Creating Specialized Housing Areas

In general, some of these units either exist or are under study. For example, we have a pod set aside for protective custody (8-C), our adolescent residents are housed separately (SMU-B), and Warden Williams proposed a unit for older males (4-B).¹⁸

¹⁴ Jones, Alexi (2 March 2021). "[Visualizing the unequal treatment of LGBTQ people in the criminal justice system](#)". *Prison Policy Initiative*.

¹⁵ McCauley, Erin; Brinkley-Rubinstein, Lauren (2017). "Institutionalization and Incarceration of LGBT Individuals". [Trauma, Resilience, and Health Promotion in LGBT Patients: What Every Healthcare Provider Should Know](#). Springer.

¹⁶ 511 U.S. 825 (1994); the Court's decision was unanimous.

¹⁷ We make no allegation that such a horrific situation could or would happen under Warden Williams.

¹⁸ Report and Findings of Unannounced Inspection, Delaware County Jail Oversight Board, December 2022.

We understand that these population subsets will be small compared to the size of a typical housing unit. It may be practical to divide a single pod into more than one space. For example, a pod could be split vertically, placing older residents on the lower tier and the protective custody residents on the upper tier. The costs associated with any remodeling can easily fit within the annual capital improvement allocation. Special accommodations might also qualify for grants.

Each of these units must allow for the full panoply of privileges and activities granted to those in the general population. Anything less constitutes a restriction based on status.

These units not only increase the level of safety for the target group but should also reduce the overall risk of violence between residents which have been on the rise. Creation of these units should not require increasing staff, as this is merely a shifting of residents between existing areas.

Older residents:

Accommodations for this subset must include access to justice, maintaining family connections, specialized (different) programs, and alternatives to work, education, vocation and recreation which exist for those in the general population.

Jails such as ours were not designed for those who are older; they were designed for younger males. Climbing to the upper bunk is both difficult and dangerous, as can climbing stairs. Early stage dementia can make a person appear deliberately disobedient to orders. Hearing and vision losses can be dangerous in settings where violence and predatory behaviors are common. If there's an old lion or gazelle, the younger ones will try to take advantage.

Accommodating older individuals requires such simple changes as installing ramps, widening doorways and cells, and placing handrails in showers and toilets.

A special unit also allows the jail to develop specialized programs to support these residents. Age segregation generally contributes to positive mental health and encourages interaction and socialization within a peer group.¹⁹

We list some special accommodations that go beyond the physical plan. The list is by no means exclusive and the implementation of these recommendations should be guided by informed research and also feedback from the older men.

The library should include large print books and these should be restricted to use only by those who need them. This mini-library should be on the unit. It should not be part of the current book-cart system, nor should it be used as the basis to remove the current book-cart system. It should exist "over and above". It should also include audio books on tablets at no charge. The goal is to provide access to recreational reading which is equal to that which is provided to everyone else.

The media devices must be adapted to older persons. Tablet displays might have to be adjusted. Phones may need enhanced volume and/or hearing-aid compatibility. Background noise levels should be

¹⁹ UNODC, *supra*, at 127.

reduced or canceled through technological means. Communications systems must comply with the Martha Wright-Reed Act.

The re-entry services must be equivalent. To do so, they must be specialized for older returnees. This may include changing life skills needs, accessing and utilizing COSA, understanding Medicare and Social Security, etc.

Programming must be tailored to the population. For men who are over the age of fifty, taking up a new vocation is not the goal. Instead, programs should focus on *returning* to previous jobs and/or exploring new job paths based on existing skills and experiences. At the same time, we should not discard the skills and experiences which some of these men might bring into the jail community, and ways can be developed to let them share these with younger persons.

Recreation needs to be tailored to the population. Going outdoors may be less practical for many older men. Age-appropriate fitness opportunities must be provided. The CDC recommends that older adults have two sessions of strength training plus cardio and balance activities. An alternative is to create a fitness area and provide equipment to meet the three areas of cardio, strength and flexibility. We propose a mini-gym for this unit which is comparable to the one available to the general population and also takes into account the special needs and limitations of older persons.

Recreational activities, both indoor and outdoor, must be provided in forms which make them comparable. This is as simple as outdoor seating, and a TV with accommodations like closed captioning and audio remote via headsets, etc. If these men can't fully utilize the recreation facilities, then it is effectively denied to them.

There must be complete access to religious services and chaplains. This goes beyond periodic visits by Chaplain Dunn. RLUIPA²² sets the minimum standards for religious accommodations, but we should not settle for the minimum. These men deserve equivalent access to services, sacraments and observances, as well as contact with ordained clerics of their faith.

The housing unit must include dedicated spaces for the counselor, religious contacts and medical triage. A multi-purpose room should exist for programs, classes, meetings and religious services. A private space (visual monitoring only) is needed for religious and other counseling and meetings between staff and residents.

The housing unit should be specially modified and outfitted to fully comply with the Americans with Disabilities Act Amendments Act (ADAAA).²³ A central bathroom must be built adjacent to the shower area. This bathroom should not be locked while residents are out of their cells, and the pod officer should be able to monitor its use. It should include an emergency call button. The shower should incorporate a changing area and a chair or bench in the shower. The stall must be ADA compliant, including size, grab bars, faucet controls, etc.

The unit should consist entirely of single cells that meet the ADA requirements. For example, the layout must be such that floor space is maximized. Grab bars should be mounted near the bed and toilet. The desk and seat must be useful (as opposed to utilitarian). Sink and toilet controls must be easy to reach.

²² Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §2000cc-1, Protection of religious exercise of institutionalized persons.

²³ The Americans with Disabilities Act Amendments Act was signed on November 25, 2008 and took effect on January 1, 2009. It broadly increased the number of conditions which qualify as disabilities and therefore merit special accommodations in the wake of several Supreme Court decisions which had narrowly interpreted the original ADA (1990). Qualifying disabilities now include seizure disorders, cancer, diabetes, paraparesis, cardio-vascular diseases, neurological and respiratory conditions. <https://www.govinfo.gov/content/pkg/CFR-2011-title29-vol4/xml/CFR-2011-title29-vol4-part1630.xml>

Brighter lighting is necessary. A cabinet or shelf must be installed because the floor is too low for storage.

It should not bear mentioning, but a common complaint is that call buttons either do not work or are ignored. Within this special population, it's imperative that actually are promptly answered every single time. Also, a very common complaint from residents of all ages is that the facility is simply cold all the time. On this housing unit, the temperature must be very well-regulated and warm enough not for the staff, but for the men who live there. If a visitor needs a sweater, a resident is already cold.

The dayroom furniture needs to be modified. Some tables will need an open side to accommodate a wheelchair and seats need to be more comfortable to avoid pain from sitting. In-cell dining might not be better for many, so these men should have the option of eating at the dayroom tables.

The staff for this unit should be selected for their maturity, experience and willingness. They should receive specialized training and display competency at working constructively and effectively with this age group, including knowledge of the aging process, understanding disabilities and communications skills with older persons.

We also propose creating a program for GP males to assist these prisoners. These assistants could be housed either adjacent to the older unit or on the older unit. Among their duties would be to serve as escorts for anyone whose mobility is even slightly limited, as an interpreter - at least for Spanish, perhaps ASL, an assistant for showering, mobility, errands, reading/writing and cleaning their cells.

The position is voluntary and training is part of it. There should be rewards and/or pay, and also recognition which is shared with the courts so that those who demonstrate good performance reap the benefits. The short time-frame should not control admission to this program. The program can aim for those who are under sentence or where protracted detention is anticipated, but with our current bail system, true short-timers are probably few.

Training for these assistants would include listening skills, patience, mobility issues, hygiene, and "clean-ups," alongside understanding and accepting responsibility for the care of another person. Close monitoring for a wide range of potential problems, both direct and indirect, must be maintained.

Adolescents

Accommodations for this subset should include access to justice, maintaining family connections, specialized (different) programs, comprehensive education, vocational opportunities and meaningful recreation.

Just as jails weren't built with older adults in mind, they were never truly intended to house minors. Changes in our laws²⁴ rapidly increased the presence of those under age of eighteen in our adult facilities, forcing jail administrators to accept them. In 2003, PREA dictated the requirement for separate housing, which forced administrators to allocate a defined space.

The contractor operating George W. Hill CF decided to take one side of the Special Management Unit (16 cells) and place the handful of adolescents there. This unit has access to an enclosed outdoor recreational space, a shower and a large TV. This has not changed since we returned to direct government management. The boys housed there do not leave the unit except for medical reasons or for visits.

²⁴ Act 33 of 1995

Most of the special accommodations require no changes to the physical unit. This list reflects the minimum, not the maximum, which can be done for our children.

The meals served on this unit should be tailored to the age group. Adolescents have the greatest disparity between current nutrient intake and recommended intake of all age groups. Poor intake patterns and inadequate physical activity contribute to overweight and obesity and risks of chronic disease later in life,²⁵ drawing special concern that we are not treating them like “little adults.”

The recommended caloric intake for males ages 14 thru 18 can be anywhere between 1,800 and 3,200, depending on their energy level. For example, a sixteen year-old male who is 63 inches tall and has a healthy Body Mass Index (BMI), living a low-activity lifestyle, has an estimated daily need for between 2,193 and 2,672 calories.²⁶ Sugar-added foods do not contribute to these needs. As we encourage these teenagers to be physically active, we must make the proper adjustments and be sure we’re meeting their needs.

Programming must be tailored to the population. It should include vocational exposure, exposure to age-appropriate hobbies and therapeutic exercises to help them maintain a positive mental balance.

Education must go beyond having someone drop off homework and collecting it a few days later. A certified secondary educator should be on the unit no less than five days per week and spending time with the students. Lessons must be presented and meaningful work should be assigned and graded. We must shift from a self-study model to a truly interactive educational program.

There should be a library of books and magazines that are appropriate to the age group. The reading preferences of adolescents are generally different from that of adults. These books should remain on the unit and not sent to other units. A list of suggested materials is appended to this proposal, courtesy of a high school librarian.

Physical recreation must be tailored to this population. Once again, it must include an indoor fitness area and equipment for cardio, strength and flexibility. Because we can view this as part of the educational curriculum, access to this area should be largely unrestricted. A fitness coach should also be present on a part-time basis.

There must be other age-appropriate recreational activities. Television is certainly among them, provided there is access to age-appropriate programming. Board games of varying complexity should be available.

Finally, there must be complete access to religious materials, services and chaplains. No youngster should be pressured to participate, nor should he lose his connection with his faith. We must fully appreciate the importance of faith and spirituality to many of our youth.

The unit must be physically modified to create dedicated spaces for the items listed above. The counselor should have an office on the unit so as to facilitate contact. A similarly private space (visual monitoring only) for religious counseling, meetings with legal counsel and other authorized visitors should exist. There should be no less than one *fully outfitted* classroom which includes computers and video instructional capability. We should develop a multi-purpose space for programs, religious services and recreation (separate from the fitness area) and also create a game room equipped with video gaming system(s).

²⁵ USDA: *Dietary Guidelines for Americans, 2020-2025*, Chapter 3, at https://www.dietaryguidelines.gov/sites/default/files/2020-12/Dietary_Guidelines_for_Americans_2020-2025.pdf.

²⁶ A good calculator can be found at <https://www.nal.usda.gov/human-nutrition-and-food-safety/dri-calculator/results>.

Staffing on this unit is equally important. We limit these males to a handful of persons throughout their daily lives, often for many months, and so this surrogate family must be the best we can provide.

The availability of weekly, individual counseling cannot be understated. The adolescents in our jail have generally come from disadvantaged childhoods and been exposed to many forms of trauma. Quite possibly, it is only while they're incarcerated that they begin to open themselves to change – which is our goal. Therefore, their front-line counselor should be a clinical counselor with specialized training to work with adolescents from a trauma-informed model. Secondary education certification is a plus. The counselor should be culturally aligned with the population. Sessions with this counselor should be non-directed, as opposed to any formatted programs.

Corrections officers should be carefully selected and specially trained because they are now in the roles of surrogate parent, coach and mentor. The youth on this housing unit should actually *want* to see these staff members, rather than view them as persons to be avoided. One way to facilitate this is to shift away from static supervision and more toward interactive role-modeling. Younger officers of similar cultural background are more likely to form positive connections. The officers serve as mentors in that they can show teenagers how to be a man.²⁷

The ancillary staff, from counselors, teachers, activity aides, ministers all the way to supervisors and administrators should also strive to be seen this way.

LGBTQ persons

Accommodations in general for this group should include equal access to justice, maintaining family connections and equal forms of recreation and privileges.

To an extent, members of this group have three options: general population based on their birth-assigned gender or genital status; the male protective housing unit; or the SMU. The first option exposes them to the risks described above but offers them full access to prison activities and privileges. The third option is the converse – full protection at the cost of all privileges. The middle option, while between the other two, still results in a substantial restriction. The restriction is based on their status, not on their behavior. The male protective unit is designed to protect the men from harm *outside* the unit; it does not anticipate harm that could arise between residents on the unit. In other words, a transgender person who appears female is probably no safer from sexual assault or harassment than if she were housed in general population.

The availability of a dedicated unit would provide the best level of safety for these residents. It would also allow them to feel more comfortable because it would create a sense of community, likely reducing the need to remain closeted for months. Hiding one's sexuality can be emotionally draining, and such stress can break down an individual's will to assert their right to trial and opt plead guilty.

Lastly, the primary focus must shift from "what these people might do with one another" to "what others might do to these persons." Like anyone else, these persons present some risk of predatory behaviors which impact others, but the frequency is not greater. The jail has a legitimate interest in prohibiting even consensual sexual contact: Interferes with safe management and it generally ends poorly – often with false PREA claims. Just as you wouldn't let spouses share a cell, you don't want relationships.

Some specific points of potential vulnerability are the showers and camera blind spots. There are also so-called drive-bys and loitering on cell doors. Double-celling, if employed, must be carefully planned

²⁷The mentor is more than a role model. He is an experienced and trusted advisor. He is committed to the mentee and becomes an influential person to guide his development. .

and capable of being changed on short notice and without resorting to restrictions. The availability of empty cells on every housing unit should be a matter of policy.

Personal searches must fully comport with PREA. Corrections staff are taught the proper way to conduct a “pat search”.²⁸ Searches by non-medical staff should be conducted solely in response to documentable safety and security concerns. They must never be used to ascertain genital status. Pat searches should always be conducted in camera view.

Sexual harassment can be difficult to detect. The standard is “repeated and unwelcome” comments, jokes, advances or suggestions.²⁹ It is critical that staff take reports of unwanted sexual conversation seriously. Sexual assault is a relatively clear standard, but it is not always easy to distinguish between consensual, exploitative and assaultive. Again, the incarcerated person’s feelings and judgment should be given considerable weight.

There must be no restrictions or limitations imposed except as a consequence of improper behavior. To the same degree as those in GP. Specific privileges are listed after the final special population. Specific to the LGBT residents is the matter of clothing. aside from the “protected” identifying color, outer garments should not be different, and transgender persons should be provided undergarments of

Staffing for this unit is also specialized. Assignments to this unit should be voluntary. The staff must be comfortable among GBT persons and have proper training. They should not accept improper behaviors, but they must be empathetic and understanding of special concerns. All off-unit staff should also be better trained for interactions.

Persons with Special Cases

As noted, *supra*, this is the subset of the population for which special accommodations already exist. We propose that, as other spaces are dedicated for the groups already mentioned, the nit for this group be modified to the same standards. The men on this unit should not be denied any of the privileges that are given to those in the general population.

Out-of-cell time should be comparable to that afforded to everyone else. It should include the same opportunities for indoor and outdoor recreation. If they are not permitted to travel to the gym, then bring the gym to the unit as described above.

All programming, including religious services and pastoral counseling, law library, including direct access to materials, counseling, social services and re-entry guidance must be matched to the general population. These men must also have equal access to phones, emails, tablets and in-person visiting.

The officers and staff assigned to this unit should be selected with care. Many prejudices are difficult to leave at the workplace door. As described in the example which opened this document, men charged with sexual offenses attract greater disdain from those around them than any other group, even before they are convicted. Those who work in close contact with these men must be able to set aside their personal feelings, not just “control” them.

²⁸ PREA Standard 115.15 recommends that the incarcerated person decide the gender of staff who will pat-search or strip search him or her.

²⁹ PREA Standard 115.6.

Anticipated push-back

As with any proposed changes, we anticipate resistance. It is said that corrections can be the most stubborn agency in the world. Resistance to change comes from the authoritarian, paramilitary, top-down leadership model, traditionalist leadership style and rigid ideology. We feel that George W. Hill Correctional Facility is on the cusp of changing this paradigm, but we acknowledge some of the predictable counter-arguments.

The likely first objection will be cost. Because we propose modification of several spaces within the building, this will likely be reduced to a dollars-per-inmate number. One way to address this is by carving one pod into more than one unit. The small numbers within these subsets might lend to one pod might be divided in some manner to provide two housing areas. Providing equipment will surely increase costs, but not nearly as much as construction. Staffing will also affect costs. While there would be no increase in overall population, the separations will lead to more spaces being used. We envision this to be a small challenge.

Under-use might also be raised as a counter-argument. The small number of some of these special populations, along with potentially short stays, can be offset by offering to house persons from our neighboring counties in an exchange program.

At the same time, there are other considerations. ADA compliance requires that those with physical disabilities are not forced to choose between protection and access to activities which promote better health, religious services and recreation. PREA compliance requires that those under the age of eighteen must be separated from adult residents. In many ways, protecting these groups on special, non-restrictive housing units, would ultimately help avoid liability. It would also advance the goal of making the George W. Hill Correctional Facility the prototype for county jails in Pennsylvania.

Conclusion

Adopting the goal that each man, woman and teenager who enters the George W. Hill Correctional Facility should leave better than they entered benefits not just the individual but also the county. The facility becomes a safer place, the county faces decreased liability and those unfortunate to be taken to jail are that much less likely to return. The initial investment to strive for this goal comes back in a decreased population and a safer environment for residents and staff. We said this three years ago and we repeat it today.

The DelCo Coalition for Prison Reform submits this proposal as just one part of a multi-pronged effort to change the way justice is administered in Delaware County. Far too many of our family and friends are locked inside the jail.³⁰ We understand that the jail does not dictate its own daily population, but one way to improve conditions is to reduce the population size. To this end, we will continue to advocate for meaningful bail reform, changes to adult probation and parole, and the end of direct filing for juveniles. At the same time, we demand protection for everyone inside the facility without restrictions.

³⁰ By way of comparison, Montgomery County jails 1.06 persons per 1,000 residents, Buck County 1.10 per 1,000 and Chester County 1.18 per 1,000. Delaware County averages 2.22 persons in jail per 1,000 residents