

# The Correctional Association of New York

FOUNDED 1844

2090 ADAM CLAYTON POWELL, JR. BLVD. • SUITE 200 • NEW YORK, NY 10027  
TEL. (212) 254-5700 • FAX (212) 473-2807 • [www.correctionalassociation.org](http://www.correctionalassociation.org)

## **FIVE POINTS CORRECTIONAL FACILITY**

The Correctional Association (CA) visited Five Points Correctional Facility November 17, 18, and 19, 2008. Five Points is a maximum security prison located in the center of the state, in the town of Romulus. The prison was built in 2000 and has a capacity to house 1,500 inmates. At the time of our visit, there were 1,386 inmates, with 1,290 of them in general confinement. The facility also has a 50-bed Special Housing Unit (SHU) for inmates in disciplinary confinement, which held 36 inmates at the time of our visit.

The prison offers a variety of treatment, vocational and educational programs. Some of these programs include substance abuse treatment, an Intermediate Care Program (ICP) for inmates with serious mental illness, a Special Treatment Program (STP) for inmates with serious mental illness in disciplinary confinement, and a Residential Crisis Treatment Program (RCTP) for inmates experiencing acute mental health crises. At the time of our visit, there were 21 inmates in the ICP, 43 inmates in the STP, and five inmates in the RCTP.

The primary objective of our visit to Five Points was to assess the facilities and programs. The CA obtained surveys about general prison conditions from 239 men in general confinement and from 20 men in the SHU. We also received 10 surveys from inmates in the ICP and 17 surveys from inmates in the STP. In addition, we received 48 surveys from inmates specifically concerning substance abuse programs and 130 from inmates about their need for substance abuse treatment. We have not included the results of the substance abuse treatment surveys or our evaluation of the substance abuse treatment program, as we will publish them in a subsequent report. We have based this report on findings from data provided by the facility prior to our visit; inmate surveys; conversations with the Superintendent, the executive team, program staff and inmates; observations during our visit; correspondence with inmates; and meetings with the staff union representatives and members of the Inmate Liaison Committee and Inmate Grievance Review Committee. Facility administrators had the opportunity to review a draft of this report and the CA had a phone conference with them on Friday, April 23, 2010 to discuss their comments and any developments subsequent to our visit.

### **Summary of Findings and Recommendations**

The Visiting Committee was impressed with the academic program's initiative in establishing a pre-college course and with the facility's success in transitioning a relatively high

number of inmates from the Special Treatment Program to less restrictive environments. We also noted some problems: the apparent high level of verbal harassment and physical confrontation between staff and inmates and among inmates; insufficient staff training, particularly regarding mental health issues; mistreatment of inmates in the Residential Crisis Treatment Program, Special Treatment Program, and Special Housing Unit; complaints about the quality of medical care; significant delays with the mail; and lack of access to the Family Reunion Program.

Our recommendations are that state policy makers should work with DOCS and facility officials on implementing a range of measures, including the following:

- Fill the academic vacancy.
- Expand the number of inmates taking the GED.
- Ensure eligible inmates have access to the Family Reunion Program.
- Initiate monitoring measures to prevent delays in the delivery of mail and packages to inmates and to reduce destruction or loss of items contained in packages.
- Assess the level and causes for tension within the prison and develop a plan to reduce tension and incidents of verbal harassment, including diversity training for staff and inmates.
- Fill the vacant nursing position.
- Review the quality of the sick call and medical encounters and ensure that all sick call nurses adequately address inmates' medical needs.
- Renew efforts to hire a pharmacist and to open a prison pharmacy.
- Conduct regular meetings among the Inmate Liaison Committee, Inmate Grievance Resolution Committee and the medical staff to discuss inmates' concerns with healthcare.
- Provide additional residential mental health treatment for general population inmates with serious mental illness by expanding the ICP program at Five Points and other DOCS facilities.
- Institute meetings among the Superintendent, supervising mental health staff and STP inmates to review their grievances to assess their relations with security staff, with a particular focus on reducing staff verbal harassment and physical confrontations between inmates and staff.
- Discontinue use of the caged treatment units for group therapy in the STP and institute an individualized determination for each patient about whether restraints during group therapy sessions are appropriate.
- Review the records of recent STP inmates who have remained on the unit for more than six months, have been removed from the STP program due to misconduct or have received multiple tier III violations to assess whether non-punitive measures could be implemented to improve their behavior and eventually lead to transfer from disciplinary housing.
- End the practice of punishing inmates with restricted diets in the SHU.
- Increase the amount of mental health training for staff.

## **Five Point's General Inmate Population**

Similar to state-wide averages, 57% of Five Points inmates identify as African-American, 24% identify as Hispanic and 17% identify as white.<sup>1</sup> The median age of the population is 34 with 39% under the age of 30. Sixty-five percent of the population comes from New York City and its suburbs, which is consistent with the system-wide average. With regards to sentencing, 44% of the population has a minimum sentence of 10 years. Thirty-two percent of the population will reach their earliest possible release date within the next year, which is about 15% less than the system-wide average. The majority of the population, 71%, was convicted of a violent crime, approximately 13% greater than the system-wide average. Fifteen percent were convicted for drug offenses.

Forty-nine percent of the population has their high school diploma or GED, compared with 54% throughout the state prisons. Five percent of the inmates are Spanish speaking with limited or no proficiency in English. Eighty-three percent of the population identified as having a substance abuse history, about the same as the system-wide average of 84%.

## **Programs**

According to the data we received from the facility, 143 inmates, or 11% of the general population, are idle as they do not participate in a program. A total of 1,066 inmates were occupied in a program or job for the whole day, while 119 had half-day programs. At a rate lower than other facilities we have visited, approximately 14% of those with assignments were porters, which involves performing maintenance and cleaning tasks for the prison and generally does not help individuals to develop transferable skills. Of the inmates we surveyed, 62% were at least somewhat satisfied with their job, slightly lower than at other prisons we have visited.

Consistent with prisons throughout the state, Five Points' inmates receive limited wages for paid modules. The rate of pay has remained unchanged for approximately 20 years, although the cost of items in the prison commissary has increased with inflation, and commissary prices are comparable to charges for goods purchased outside the prison. Inmates may purchase only a limited dollar amount of goods at one time, a restriction that has not changed alongside price inflation. Prisoners at Five Points, and throughout the state, consistently complain about their growing inability to afford commissary goods. Of those we surveyed, only 25% were satisfied, at least somewhat, with the commissary, a rate lower than at other prisons.

## ***Academic Programs***

The Visiting Committee toured several classrooms and spoke with several members of the academic staff, many of whom with significant experience and seemingly dedicated to teaching their students. At the time of our visit, Five Points' academic courses included Adult Basic Education (ABE), Pre-General Equivalency Diploma (Pre-GED), GED and a bilingual class primarily for ABE and pre-GED students. There is also a cell study program for inmates in the SHU, ICP, and STP, with an instructor dedicated to this program. Of the total of 13

---

<sup>1</sup> According to DOCS' Hub Profile from 1/1/2008, system-wide averages are: African-American (51%), Hispanic (26%) and white (21%).

academic instructor positions, one had been vacant for almost a year. The one Spanish-speaking teacher instructs two bilingual classes. Additionally, the facility offers a pre-college creative writing course coordinated by the facility's Academic Supervisor. At the time of our visit, the class had a capacity for 20 students and 18 were enrolled. Facility staff reported that they were hoping to partner with a local college to expand this program.

Three-hundred and ninety-seven inmates were enrolled in one of these classes when we visited the facility. Fifty-two of these inmates were enrolled in the GED class, which had a capacity for 40 students. In 2008, 63 inmates took the GED exam and 79% of them passed. Similarly in 2006, 48 of the 66 inmates (73%) who took the test passed and in 2007, 51 of the 67 inmates (76%) taking the exam passed. While these rates are higher than the statewide passage rate of 71%, the number of students taking the exam is lower than at other facilities, considering the size of the prison. Staff explained that it is facility protocol for inmates to take and pass a state-issued pre-test before they are permitted to sit for the GED exam, thus fewer inmates are eligible to take the exam than at other facilities.<sup>2</sup> Additionally, they attributed the low number of SHU test takers to the large number of inmates who are transferred to S-Blocks at other facilities before they have the opportunity to take the exam.

Sixty-four percent of surveyed inmates were satisfied, as least somewhat, with the educational program, slightly higher than at other prisons we have visited. Inmates noted the need for more instructors, particularly for the GED course. Inmates reported that because there were few GED classes, they were sometimes placed in a pre-GED course even though they were qualified for the GED course. Additionally, many inmates were unaware of some of the academic services offered such as voluntary tutoring.

During our April 2010 conversation with prison administrators, staff told us that the one vacant academic instructor position was filled after our visit, but now a new vacancy exists. Facility staff maintained that they do not need to fill this vacancy because the inmate population's academic needs are being met with the current staffing. We remain concerned about this vacancy, particularly in light of the inmates' assertion that there are not enough GED classes and that some inmates qualified for the GED level are being placed in Pre-GED courses.

Staff also explained during this conversation that of the 75 inmates who took the GED exam in 2008, 70 inmates passed (93%), and of the 56 inmates who took the exam in 2009, 42 inmates passed (75%). In addition to general population test takers, the CA was pleased to learn that in the past year, several ICP inmates and one STP inmate enrolled in the cell study program passed the GED.

### ***Vocational Programs***

The Visiting Committee toured the vocational program areas of the prison and found them well-equipped. At the time of our visit, 468 inmates, or 36% of the population, were enrolled in one of the facility's ten vocational programs. Classes included appliance repair, building maintenance, cabinet/millwork, custodial maintenance, general business, electrical trades, horticulture/ agriculture, small engine repair, masonry and plumbing/heating. All 16

---

<sup>2</sup> The OPT Official Practice Test is made available by the New York State Education Department.

vocational instructor positions were filled; however, there were no bilingual Spanish-English staff. The instructors with whom we spoke were experienced in their field and seemed dedicated to teaching their trade to their students. We were pleased to learn that the vocational and academic departments meet once per month to coordinate lessons. During our April 2010 conversation with staff, the CA learned that two staff vacancies opened since our visit: an evening general business instructor and an afternoon small appliance repair instructor. Staff explained to us that they had not placed a request to fill the positions because there were no inmates waiting to take these classes. Five Points also offers eight Department of Labor (DOL) apprenticeships; but it appears few inmates are pursuing a DOL certificate. In 2006, 2007 and 2008, zero, one and three inmates, respectively, received a DOL certification. Staff explained to us that so few inmates enroll in the DOL certification program because the program takes two to three years to complete and enrolled students must commit not to transfer from the facility during that time. Facility staff believe that many inmates are reluctant to commit to Five Points since the facility is so far from New York City. As of April 2010, six inmates were enrolled in the DOL certification program.

Sixty-nine percent of surveyed inmates were satisfied at least somewhat with the vocational program, similar to the rates at other prisons we have visited. Like other prisons, Five Points allows inmates to enroll in only one vocational program, and inmates with whom we spoke expressed a desire for more vocational programs. Staff noted that while idleness was not a problem in the facility, inmates would benefit from more programs, particularly programs that were more relevant to succeeding in the community. While some inmates we surveyed complained that instructors were not helpful, many said that their teachers took time to help them learn new trades in which they were interested. Others expressed frustration that inmates were transferred before they could complete their program.

## **Libraries**

Members of the Visiting Committee inspected the library, which is open every day and employs one civilian librarian and 23 inmates as clerks and assistants. Staff estimated that anywhere between 20 and 50 inmates visit the library daily. Inmates are not permitted to browse the stacks of approximately 3,000 books and periodicals, but they do have access to the holdings by computer. The library participates in the interlibrary loan program, whereby inmates can request books from other libraries. The library sends a cart through the SHU once every 60 days. Fifty-five percent of survey participants were satisfied, at least sometimes, with the general library, lower than at many prisons we have visited. Some inmates reported that the general library was often closed.

We also toured the law library, which is open seven days per week. There are approximately 14 inmate law clerks who work in the law library. While staff reported that about four to five inmates use the law library at a time, inmates complained that often more inmates were there and that the space was too small. Similarly, while staff reported that it takes two to three days to approve a request to visit the law library, some inmates said that approval can take as long as two to four weeks. According to facility staff, law library requests from the SHU are usually filled the same day as the request. At a rate lower than we found at other facilities, only 49% of respondents were at least somewhat satisfied with the law library.

### **Visiting, Mail/Packages, Food Services**

The Visiting Program at Five Points operates seven days per week. There is an outside area, which staff explained is used year-round, weather permitting. There are two free buses for visitors, one from New York City and one from Buffalo, which run once a month. The visiting area has a small, brightly-painted area for children, where no inmates or visitors are allowed. This area is only open on weekends. Inmates reported that while the Family Reunion Program, or “trailer visits,” has been approved at the facility for some time, these visits are not occurring. During our April 2010 conversation, staff told us there was no funding for the Family Reunion Program allocated in the State budget. Many inmates also reported that the Visiting Room security staff harass visitors. At a rate much higher than at other prisons we have visited, 81% of survey respondents were dissatisfied with the Visiting Program. Opening the children’s area to parents and ensuring access to trailer visits and general visits without harassment could minimize the hardship associated with parental incarceration, helping families to preserve bonds, increasing the likelihood of family reunification after release, and reducing recidivism.

Inmates also had many complaints about the mail and package services. At a rate higher than other facilities we have visited, 68% of survey respondents were dissatisfied with the mail and package program. Inmates reported that there are often unnecessarily long delays in mail distribution and that items frequently go missing from packages. During our April 2010 conversation, facility staff told us that there are mechanisms in place to insure that mail is delivered to inmates within 24 hours of receipt.

Several years ago, DOCS asked Five Points’ inmates to choose whether they wanted to have televisions in their cells and significantly restrict their access to packages or to keep the existing package regulations. The population at that time voted to limit packages to two 20-pound packages per year from friends or family members in addition to any packages inmates might purchase from vendors, so that the inmates could purchase and use personal televisions in their cells. Because significant time has passed since this vote, the vast majority of the current inmate population did not participate in this decision, but is bound by the limitation on packages. The televisions that inmates are permitted to buy are relatively expensive, leaving inmates who cannot afford them subjected to the limitation on packages without any benefit. We question the basis for limiting packages in exchange for a television and believe it is unfair to impose such limitations on inmates who have insufficient funds to buy a television and had no input into the decision to limit their package privileges. Facility staff informed us that a majority of inmates do have televisions in their cells.

The Visiting Committee toured the mess hall, which appeared clean and orderly. However, a much greater percentage of survey participants (80%) were dissatisfied with the food services than at other prisons we visited. Inmates with whom we spoke complained that the food was unpalatable and often served cold, in small portions and past its expiration date.

### **Medical Care**

The Visiting Committee met with the medical staff and toured the medical area. We appreciate that the facility provided detailed answers to our questions and compiled

comprehensive data prior to our visit concerning the Five Points' healthcare system.

Overall, the inmates responding to the CA survey about healthcare had a mixed view of the services provided. Only 9% of the survey participants rated the medical care as good, 39% reported it as fair, and 52% said it was poor. These rates are similar to the average ratings for the other prisons we have visited. The most common theme of survey participants who expressed concerns about the healthcare system was the long delays to see a doctor.

The medical department is authorized to have: two physicians, one of whom is half-time, two physician's assistants (PAs), one nurse administrator, 14 registered nurses and one pharmacist aide. At the time of our visit, there was a vacant PA position for more than a year (since September 11, 2007) and three vacant nursing positions, with the longest vacancy being four months and the other two for less than one month. The prison has had great difficulty recruiting PAs; earlier in 2008, no PA was employed at the prison because the medical department was having difficulties finding an individual to accept the position. They also reported that they have had problems identifying nurses to work at the prison both because of the salary level authorized by the state and the distance most nurses would have to travel to work at the prison. To cover for the missing nurses, the prison employed a half-time extra service nurse, three part-time nurses who filled one full-time slot, and paid overtime to the permanent staff. It appeared that the overtime is generally accepted voluntarily by the nurses, but some mandatory overtime was required. Overall, it seemed that there was insufficient staff to meet the medical needs of the inmate population, and the prison needs support from DOCS central office to assist it in getting permanent staff.

The medical staffing situation substantially improved after our visit. During our April 2010 conversation with prison administrators, the CA was pleased to learn that the facility had hired a PA, a nurse practitioner, and a nurse, and that only one half-time nursing position remained unfilled.

Sick call is conducted four days a week in the housing areas from 5:30 am to 7:00 am. Inmates are required to sign up the night before sick call in order to be seen the next day. Holding sick call in the housing unit is not desirable because other clinic providers, medical equipment, medications and medical records are not available. The medical charts of the inmates coming to sick call must be retrieved the night before and brought to the housing blocks; we received comments from inmates that sometimes these records have not been available when an inmate was seen at sick call. Five nurses are assigned to sick call and the prison sees approximately 920 inmates per month. Forty-seven percent of inmates responding to our survey said they could access sick call when needed, 37% reported that they can access sick call only sometimes and 16% stated that they cannot access sick call when needed. These figures are comparable to the average rates at other prisons we have visited. The survey respondents were more critical of the quality of the sick call nurses. Less than 10% of the survey participants rated the sick call nurses as good, 43% said they were fair, and 47% stated that the nurses were poor; these rates are similar to the average for other visited prisons.

Inmates who experience a medical problem after the sign-up period for sick call has ended can request to receive medical attention through the emergency sick call process.

Approximately 70 inmates are seen at emergency sick call (ESC) each month. The medical staff reported that they do not issue misbehavior reports to inmates who may misuse the ESC process.

Inmates who require more medical attention than can be provided during sick call are called out to the medical area where they were seen at the time of our visit by one of the three clinic providers—the full-time doctor, the half-time doctor or the PA. With only 2.5 clinic providers at the time of our visit, there was, in effect, one clinician for every 550 inmates. This rate was significantly higher than the system-wide average of one provider for every 400 inmates. Appointments with the clinic providers are scheduled five days per week either during the morning session from 8:30 am to 11:00 am or in the afternoon clinic session from 12:30 pm to 3:00 pm. The prison estimated that approximately 240 inmates are seen in the clinic each month. The medical staff stated that for non-emergency clinic appointments, it takes about one month to see a patient. Fifty-one percent of the inmate respondents to our survey stated that they frequently experienced delays in seeing a doctor, a rate higher than the 46% figure for all other prisons we have visited. The median estimate of the survey participants was that it takes 30 days to see a clinic provider, a delay consistent with the providers' figure. The inmates participating in our survey were even more critical of the care they receive from the doctors and PA. When asked to rate the doctors, only 10% of the inmate respondents said the physicians were good, 42% rated them as fair and 48% reported that they were bad. These figures are unsatisfactory but similar to the averages we have obtained at other prisons.

With the hiring of additional clinic providers since our visit, the CA anticipates that the quality of inmate care will be enhanced and the waiting time for inmates with medical complaints will decrease.

Five Points has a significant number of inmates with chronic medical problems. At the time of our visit, there were: (a) 31 HIV-infected inmates of which 13 were on treatment; (b) 116 inmates infected with hepatitis C (HCV) of which four were on therapy; (c) 178 asthmatic inmates of which 144 were on treatment; (d) 123 inmates with hypertension of which 115 were on treatment; and (e) 57 inmates with diabetes of which 49 were on daily medication. In addition, the prison is handicap accessible and therefore houses 45 wheelchair-bound inmates. All these inmates require consistent and sometimes extensive medical services, and we are concerned whether the prison has adequate staff to address the needs of inmates with chronic medical problems. We were informed by staff that Five Points' inmates with chronic medical problems are not assigned to a specific provider for all their care, which is a recommended practice to ensure continuity of care. Staff stated, however, that the prison tries to have the same provider see a patient for follow-up visits. Moreover, with the exception of HIV-infected patients who are seen by the Facility Health Services Director, Dr. Weinstock, the prison does not have most patients with a specific condition, such as diabetes, monitored by the same provider who may have particular expertise in the treatment of that condition or who could develop such expertise given the concentration of patients he or she is seeing.

With only 31 known HIV-infected inmates, representing 2.2% of its prison population, Five Points has a smaller HIV population than many prisons and has identified only about one-third of the number of inmates at the prison who may be infected with HIV based upon the estimate that 6% of the state prison population is HIV-infected. We are also concerned that only

13 HIV-infected patients were receiving treatment. This is a particularly low number considering there were seven patients with AIDS and three patients found in the most recent HIV Continuous Quality Improvement audit to be unstable. We have data on specialty care services used by each prison for Fiscal Year 2006-07 indicating that Five Points had only four appointments with an infectious disease (ID) specialist during that year. The prison may have increased their use of ID specialists recently, but we are concerned about whether the prison is aggressively evaluating its patients for HIV treatment and promptly referring patients whose therapy is not fully effective to an ID specialist for evaluation and potential changes in treatment.

At the time of our visit, the prison had 116 inmates known to be infected with hepatitis C (HCV), representing 8.4% of its population, but only four patients were receiving treatment. The current estimate is that approximately 13% of DOCS male inmates are HCV-infected; consequently, Five Points in effect has identified about two-thirds of the inmates at the prison who may have the disease. Of the 116 inmates, 75 patients are chronically infected, representing 65% of the HCV-infected inmates. The chronically infected inmates should be assessed for treatment and we are concerned that only four are receiving therapy. In analyzing Department specialty care data for Fiscal Year 2006-07, we found that the prison had significantly lower utilization rates for gastroenterology and liver biopsy referrals, two crucial consultations/procedures needed to determine whether to provide treatment to an HCV-infected patient. We are concerned about the low number of HCV-infected inmates on HCV treatment—four at the time of the visit and two as of January 2007. None of the five inmates who were co-infected with HIV and HCV were on HCV therapy. We urge the Department's Division of Health Services to review the procedures and care provided to HCV-infected inmates at the prison to assess whether the prison medical department is aggressively evaluating and treating inmates infected with HCV.

Inmate respondents to our survey were also somewhat critical of the specialty care services provided by the prison. Seventy-three percent of the survey respondents reported that they experienced delays in access to specialty care at least some of the time, rates somewhat higher than the averages for other prisons the CA has visited. The survey participants estimated that the delay in specialty care was two months or more. Although Five Points uses all specialty care services at a rate that is somewhat above the system-wide average, it uses several essential services at rates that are substantially below the department-wide averages. For example, during Fiscal Year 2006-07, the following services were underutilized: cardiology (37% of system-wide average); gastroenterology (52%); infectious disease (4%); liver biopsies (26%); nephrology (27%); and ophthalmology (73%). There is nothing different about the Five Points inmate population that would explain such significant variations of utilization of important specialty services. Inmate survey respondents were critical of the prison's follow-up to specialists' recommendations, with two-thirds of the respondents saying there was inadequate follow-up.

The prison does not have a pharmacy and must order its medications from an outside contractor, Kinney Drugs. The staff explained that these medications are more expensive than if they were supplied by the Department's central pharmacy. We were told by the medical staff that if medications are ordered by 2:00 pm, the drugs will be delivered the next business day. Medications are distributed in the cell blocks at 7:00 am and noon, but inmates must come to the medical area for medications distributed at 4:00 pm and 9:00 pm. The prison reported that on

average, it provides on-on-one medications to approximately 300 inmates; staff also said that psychotropic medications are distributed by a nurse employed by the Office of Mental Health. For medication refills, inmates must submit a sick call slip requesting the refill. Fifty-eight percent of survey participants who were on medications stated that they experienced problems getting their medications at least some of the time.

The prison has a 12-bed infirmary that had six patients at the time of our visit. Staff reported that the typical stay in the infirmary is a few days to one week; although when we visited the prison there was one long-term infirmary resident. We were informed by the medical staff that during part of flu season the infirmary was full. The Facility Health Director, Dr. Weinstock, does rounds in the infirmary. Occasionally, inmates are placed in the infirmary if they have attempted suicide, are suspected of a drug overdose, or are on hunger strike.

The prison has a quality improvement (QI) committee that meets every six months, less frequently than the quarterly schedule required by DOCS Division of Health Services Policy Manual. The prison QI committee consists of the two doctors, the nurse administrator, and the Deputy Superintendent for Program. We are concerned that the Facility Health Services Director was not familiar with the Department's Quality Assessment Tools Manual, and it does not appear that the QI committee consistently reviews medical charts or assesses the care provided to inmates with chronic illnesses. More concerted QI efforts are needed to make the program effective. During our April 2010 conversation, the CA was pleased to learn that the QI committee was now holding meetings quarterly.

### *Dental Care*

The Visiting Committee met with the dental staff and toured the dental area, which had four dental chairs. The prison has two full-time dentists, one part-time dentist, two dental assistants, and a dental hygienist. All the positions were filled.

We were generally impressed with the dental department and the apparent greater access to care that exists at Five Points in comparison to other prisons we have visited. Dental staff said that it takes only three to five days to see a dentist for non-emergency care and two to three days for emergencies. The inmates who responded to our survey provided a different assessment of the access to dental services. For inmates who had received dental care at the prison and responded to survey, the median time it took to see the dentist was 30 days. A minority of respondents, however, reported that it took two weeks or less to get care. Despite the discrepancy between the staff estimates and those of the survey participants, it appears that the delay in access to non-emergency care is less at Five Points than at other prisons we have visited, where for nearly all non-emergency patients there are delays of a month or more to see a dentist. The dental hygienist performs cleanings and the staff estimated that there is about a two month backlog for routine work. There is also a dental installation in the SHU area and a dentist goes to that unit for one half-day per week.

The staff told us that 40% to 50% of their work is extractions and the remainder is restorative care. A significant number of survey participants complained that the prison dental staff was focused on extractions of teeth rather than performing restorative work. Overall, 24%

of survey respondents said dental services were good, 30% rated them as fair, and 46% reported that services were poor.

### **Mental Health Services**

Five Points is an Office of Mental Health (OMH) level one facility, requiring that mental health personnel be present in the prison at all times and signifying that the prison is capable of treating inmates with the greatest need for mental health services. While other prison programs and security are the responsibility of DOCS staff, prison mental health services are provided by OMH staff. Throughout the Department the percentage of inmates receiving OMH services has increased over the last several years. On the day of our visit, Five Points housed 218 patients on the mental health caseload, representing 16% of the prison's inmate population. Twenty-one of the inmates were in the Intermediate Care Program (ICP); 12 were in the Special Housing Unit (SHU); and 43 were in the Special Treatment Program (STP). In 2006, 2007 and 2008, eight, two, and zero general population inmates were admitted to Central New York Psychiatric Center. The facility began construction of a 60-bed Regional Mental Health Unit (RMHU) in August 2009. This \$35 million project, expected to open in the spring of 2011, will be a standalone building with four wings of single cells and a core area for programming and offices. The CA looks forward to the opening of this facility dedicated to mental health treatment.

When we visited Five Points, there were no vacancies among the OMH staff. These positions included a Unit Chief, Nurse Administrator, Assistant Psychiatrist, Psychiatric Nurse Practitioner, Licensed Psychologist, Psychologist II, Social Worker II, Senior Recreational Therapist, Nurse II, Nurse III, and three clerical staff. One mental health services staff member spoke Spanish.

Of the 161 inmates in general population from whom we received surveys, 38% reported that they had received or been recommended for mental health services during their incarceration. Approximately 20% reported that they are, or had been, on the mental health caseload at Five Points. Twenty-four percent of them rated mental health services as good, 32% rated them as fair, and 44% rated them as poor. These ratings are about the average reported by inmates in the other prisons we have visited.

Not all of the civilian and security staff working in the prison have received specialized training to work with inmates with mental illness, most of whom reside in the prison's general population. Staff told us that the majority of COs at Five Points were relatively young and new to the system, and not necessarily equipped with the on-the-job training to work with the prison's special needs populations. Every new officer receives suicide prevention training at the DOCS Training Academy and one additional hour annually; however, this training does not cover the intricacies of handling inmates with mental health issues. It seems that this lack of a more comprehensive mental health training leads to misperceptions of the needs of inmates in the OMH programs. Staff also expressed concern about their safety when working with people with mental illness. We spoke with staff and inmates who confirmed that additional training on working with people with mental illness would be beneficial. During our April 2010 conversation with facility administrators, we were pleased to learn that all staff who work within the specialized mental health units, including officers, receive eight hours of mental health

treatment training per year. However, given the prevalence of inmates with mental illness in all housing areas, programs and other services, all Five Points staff should be trained in how to recognize inmates who may be suffering from mental illness and how to work more effectively with them.

Inmates throughout the prison expressed fears and misperceptions of mentally ill individuals, similar to those of staff. OMH staff suggested that inmates with mental illness face less stigmatization at Five Points than at other prisons. Many inmates cited incidents of violence between inmates because of mental health issues and were particularly concerned about sharing cells with others with mental illness, feeling ill-prepared to handle any situations that might arise. During our April 2010 conversation with the facility, however, prison administrators asserted that OMH level 1 inmates, those classified as having the most severe mental illness, are not housed in the general population. In addition to specific mental health training for staff, providing more educational information about mental illness to the inmate population could help reduce stigma, fears, and tension in the prison.

Many inmates reported that it is difficult to maintain confidentiality with mental health treatment providers in the facility. COs are present during some mental health meetings and medications are distributed on the cell blocks with little privacy. These practices exacerbate the stigma and isolation inmates with mental illness face in most facilities we have visited.

### *Intermediate Care Program (ICP)*

The Visiting Committee toured the Intermediate Care Program (ICP), a residential treatment program for inmates with mental illness, which has the capacity to house 22 inmates. The program is located in a part of the prison separate from general population, where ICP inmates are housed in single-person cells with mesh bars that face the program area where groups are held. According to the DOCS and OMH ICP Manual, the ICP includes psychiatric rehabilitation therapy, individual and group therapy, medication management, recreation therapy, task and skill training and development, educational instruction, vocational instruction, security services, crisis intervention, substance abuse, and pastoral counseling.<sup>3</sup> OMH or DOCS staff can refer inmates to the ICP and OMH staff then screens referred inmates to determine program eligibility.

According to the DOCS and OMH ICP Manual, the ICP follows a four-step system to gradually reintegrate ICP inmates into the general population.<sup>4</sup> During the last eight years, staff estimated that about 160 patients have been admitted to the unit, half of whom have come from the STP. Of the approximately 80 ICP inmates who have come from the STP, nine have returned to the SHU. Upon entering the program, inmates are housed and attend programs on the ICP unit. Although some inmates never advance from this phase of the program, staff reported that most inmates are slowly introduced to general population activities, such as academic or

---

<sup>3</sup> NYS Department of Correctional Services and NYS Office of Mental Health. Intermediate Care Program Manual. (2003).

<sup>4</sup> Step I consists of evaluation and orientation after inmates are admitted to the ICP unit. Step II involves work, education and other program assignments on the ICP unit. During Step III, ICP inmates are given general population program assignments while residing on the ICP. Step IV involves discharge planning from the ICP, transfer to the prison's general population where the now-former ICP inmates' mental health is monitored by OMH and DOCS staff.

vocational programs. Once an inmate is discharged from the ICP to general population, he is observed for six weeks to ensure a stable transition. While in the program, inmates are scheduled for 20 hours of out-of-cell therapy per week, which may include programs or jobs with the general population.

Staff reported that there are four ICP treatment groups at Five Points, each with approximately six inmates. In addition to the group therapy sessions, the core ICP curriculum at Five Points consists of an ICP substance abuse treatment program, aggression replacement training, a Bible study program, a wellness self management program, and a program to collect bottles and cans to donate the proceeds to local charities. The facility is looking into developing a peer counseling program for ICP patients. The staff said that each group meets four to five times per week for a couple of hours at a time. In addition, inmates have individual meetings with their counselors once or twice per month for about 30 minutes each session and with the doctor once a month. Staff explained that inmates who receive keeplock time as a disciplinary sanction are typically moved to a cell next to the group therapy meeting area so that they may participate from their cell and so they can see the television. During our visit we observed ICP inmates in their group therapy session, substance abuse treatment program and the aggression replacement training.

At the time of our visit, there were 21 inmates in the ICP. Staff reported that the average length of stay on the unit is between six and 18 months, although some inmates stay significantly longer time periods. In 2006, 14 inmates were admitted to the ICP, while in 2007, six were admitted and in 2008 (through October), 13 were admitted. Most participants said they had been to CNYPC and to the Residential Crisis Treatment Program (RCTP) during their incarceration, though not while they were in the Five Points ICP. The facility reported that in 2006, 2007 and 2008, there were four, eight, and 14 inmates, respectively, discharged from the ICP. In 2006, one inmate was transferred from the ICP to CNYPC, nine were transferred to the RCTP, three went to general population and two were released from DOCS. In 2007, two ICP inmates were sent to CNYPC, four went to the RCTP, one was transferred to general population and two were released from DOCS. In 2008 (through October), four inmates went to CNYPC from the ICP, 18 went to the RCTP, six went to general population and two were released from DOCS.<sup>5</sup>

We conducted surveys with 10 ICP inmates. The median time the inmates had been incarcerated was 9.5 years and the median time they had been in the Five Points ICP was seven months. Overall, inmates shared positive comments about the ICP. Five surveyed inmates rated the ICP services as good while four rated them as fair. When asked what they liked about the ICP, many praised the program, mentioning its emphasis on positive thinking. In addition, half of the surveyed inmates said they were satisfied with the academic program. Most were satisfied with their access to the law library and with the food at least some of the time. Almost all surveyed inmates were at least somewhat satisfied with the recreation program.

The majority of surveyed ICP inmates said that they go to group therapy at least five times per week. Inmates reported that there are typically around fifteen inmates in each session, which last one to two hours. Most said that security staff is present during group counseling sessions.

---

<sup>5</sup> It appears that some of the inmates transferred from the ICP to CNYPC, RCTP, and GP may not be included in the total number of inmates discharged from the unit.

Almost all respondents said they had seen mental health staff for individual counseling at least once since they had been in the Five Points ICP, with most saying they had been seen only once. Inmates reported that individual counseling sessions lasted anywhere from ten minutes to over an hour. Most respondents had not experienced any problems obtaining their mental health medications in the ICP.

Almost all survey participants had received at least one disciplinary ticket during their incarceration and half said they spent at least three years in a SHU, where they received deprivation orders including restricted diets. Five respondents said they had been in the STP. More than half of survey participants said they had received a ticket while in the Five Points ICP, with several inmates receiving multiple tickets.

Incidents of suicide and self-harm are more prevalent among inmates with mental illness. In 2007, DOCS reported that of the 18 New York State inmates who committed suicide, half were designated as OMH level one, two, or three. At Five Points, half of ICP survey respondents said they had attempted to harm themselves since their incarceration, though only one said he had done so while in the ICP.

Most ICP inmates we surveyed were positive about relations with security staff, with most characterizing relations as at least somewhat good. Most had never been in a physical confrontation with staff in the ICP. Although some ICP inmates reported frequent physical confrontations between staff and inmates, the rate at which inmates reported these incidents and incidents of verbal harassment were lower than other facilities. Almost all respondents said there are COs who do a good job, estimating that about 20% of the COs engage in serious misconduct. The misconduct they described largely involved physical and verbal abuse. Most respondents said they feel safer in the ICP than in general population. Nearly all respondents said that they had never experienced a physical confrontation with another inmate while in the ICP, though half said that confrontations between inmates occur once in a while in the program. Most ICP survey respondents rated the grievance system as somewhat effective, though some reported they had been retaliated against for filing a formal complaint.

Overall, we found the ICP to be a safe and stable environment. We were pleased to find that a low number of disciplinary tickets were issued to inmates in the ICP, suggesting that staff use other, more constructive and effective ways to address inappropriate behavior. It seems the amount of individual therapy this vulnerable population was receiving was not extensive. We also observed several inmates who appeared to be heavily medicated.

We commend the facility and OMH staff for the relatively large number of inmates it has removed from the STP to the less-restrictive ICP, demonstrating that inmates who repeatedly violate prison rules for reasons related to mental illness can function without harsh disciplinary sanctions if they are in a protected environment. We agree with staff that Five Points has an added advantage of having both programs in the facility so that staff already familiar with clients might monitor their progress through the transition. Considering the long length of time inmates resided in the ICP and STP, the facility and OMH should explore the possibility of integrating inmates into less restrictive environments sooner and more frequently.

### *Special Treatment Program (STP)*

The Visiting Committee also toured the Special Treatment Program (STP), which provides mental health services for inmates in disciplinary housing. The STP began in 2002 and was expanded from 25 to 50 beds in February 2008. During the years 2006, 2007 and 2008 (through mid-November) 23, 42 and 55 inmates, respectively, were admitted to the program and 9, 26 and 18, respectively, were discharged. At the time of our visit, 43 inmates were in the program. Staff estimated that the average stay in the STP was six months.

We were pleased to learn that few inmates were going back to a regular SHU from this STP and most were not having problems getting psychotropic medication. We were impressed that during the last three years, six STP inmates per year were sent to the ICP and in 2008, 13 STP residents had returned to the general population. Some STP inmates spent a very long time in the STP program before they were transferred to a less restrictive setting. We interviewed several inmates who had been in the Five Points STP program for two to four years.

During our visit, the Visiting Committee interviewed 34 STP inmates, 16 of whom also provided us with detailed written surveys about conditions on the unit. As with all STP programs, SHU inmates with serious mental illness were housed in a SHU disciplinary unit, but each weekday were escorted to a group treatment room for approximately two hours, where up to five STP inmates were placed in individual caged therapeutic cubicles, each about the size of a phone booth, to speak with a group therapist or observe videos.<sup>6</sup> The CA has long objected to the use of these units for group therapy. Using such imposing physical barriers to separate therapists from their patients inhibits the establishment of a therapeutic environment and undermines the trust that should develop between therapist and patient, particularly when these restrictions are imposed throughout the treatment process, which, for some STP inmates, could extend for years. It should be noted that at Central New York Psychiatric Center, inmates with more significant mental health problems regularly see their therapist without such physical restrictions being employed.

In the STP, inmates are rewarded with positive incentives, such as extra showers, recreation time, commissary buy, visits, and personal phone calls, the use of personal sneakers, and permission to watch extra sporting events. On the other hand, negative behavior is met with discussions and “informational reports” that often do not result in additional disciplinary sentences. At the time of our visit, staff reported that about 10 to 20 informational reports are filed a month regarding poor behavior. During our April 2010 phone conversation with prison administrators, the CA was pleased to learn that a total of 171 informational reports had been issued instead of misbehavior reports, and that none of these had resulted in additional SHU time.

During our visit, the population we observed appeared stable and coherent. We confirmed that group therapy was conducted five days a week for about two hours a day. There seems to be very little one-on-one therapy, however, with most inmates reporting that they saw a therapist once or twice a month for an average of 10 to 15 minutes.

---

<sup>6</sup> The exact size of a therapeutic cubicle is 4' wide by 4'8" deep by 7' high.

STP inmates had very long SHU sentences; the median SHU sentence for survey participants was two years, but over 40% of the STP inmates we interviewed had SHU sentences from four to 15 years. Forty percent of the inmates had already been in the SHU for more than three years at the time of our visit. This data show that DOCS is still placing inmates with serious mental illness in the SHU for extended periods of time and that many of the inmates have excessively long SHU sentences. Although 44% of the survey participants reported some SHU time cuts, the median reduction in their SHU sentence was only a few months.

More than one-third of the survey respondents had received disciplinary tickets while in the program and several had received additional SHU time of one to three years. For the nearly three year period January 2006 through early November 2008, 81 major disciplinary actions (Tier III disciplinary tickets) had been issued to STP inmates, out of an entire STP population of 121 STP residents. At the time of our visit, there were no inmates on restricted diets.<sup>7</sup> In 2006, 2007, and 2008 (through October), the facility issued five, nine, and one orders for restricted diets, respectively, for inmates in the STP. Although DOCS claims that “the loaf” regimen meets nutritional standards, many inmates do not eat it because it is unpleasant and difficult to digest. In addition, the Federal Bureau of Prison and many states have abolished the use of restricted diets. It is concerning that the facility would so frequently use food to punish this group of vulnerable inmates, many of whom cannot control behavior because of their serious mental illness.

Forty-four percent of the interviewed STP inmates had been to Central New York Psychiatric Center (CNYPC) during their current incarceration and 25% had been to CNYPC since they had been in the SHU. Even more prevalent was the need for crisis intervention for these inmates due to mental deterioration; 80% of STP inmates we interviewed had been placed in a prison Residential Crisis Treatment Program (RCTP) for observation and evaluation and some had been to an RCTP as many as 8 to 20 times. Overall, for the nearly three year period January 2006 through early November 2008, there were 128 admissions from the STP to the RCTP, four times the rate of admissions to RCTP from the prison’s Intermediate Care Program. Sixty percent of our survey respondents reported that they had attempted to harm themselves since they were in the SHU, but only two said they had tried to hurt themselves since being in the STP.

Of the STP survey participants, 19% rated the mental health services as good, 38% rated them as fair and 44% rated them as poor. Forty-four percent of survey respondents assessed their relations with security staff as very or somewhat bad; 43% said it was equally good and bad, and only 14% reported the relationship as somewhat or very good. Inmates we interviewed and surveyed described frequent physical abuse from security staff much more than ICP inmates. Inmates also reported that some security staff speak disrespectfully to them.

Overall, it seems that the Five Points STP provides significant group therapy, but very little one-on-one therapy. Many inmates enter the STP program only after receiving extensive SHU sentences and some inmates spend a long time in the program before being transferred to

---

<sup>7</sup> Inmates who are fed a restricted diet receive a dense, binding, unpalatable one-pound loaf of bread and a side portion of cabbage three times a day for up to seven days straight, followed by two days off.

less restrictive environments that do not entail 22-hour confinement to a cell or cage. Additional disciplinary actions against inmates in STP are very common. Finally, reductions in SHU sentences, although common, generally did not significantly shorten the disciplinary sanction. It appears that DOCS and/or OMH are still reluctant to move SHU inmates to the ICP or to significantly reduce the disciplinary sentences of SHU inmates with mental illness who modify their confrontational behavior. We believe this is counterproductive for two reasons. First, inmates with mental illness serving long-term sentences in disciplinary confinement are likely to decompensate. SHU inmates who have made progress in group therapy could relapse due to the continued isolation and tension of SHU confinement, whereas prompt transfer to an ICP could allow further progress in their mental condition and behavior. Second, inmates with mental illness who modify their conduct need positive reinforcement for these difficult behavioral changes. Few positive incentives are awarded in the SHU and the benefit of a reduced SHU sentence by one or two months is insufficient for many inmates facing a year or even several years of SHU confinement. The DOCS policy of responding to improper behavior with negative consequences is often ineffective with inmates but remains too prevalent. DOCS should focus more on giving the positive reinforcement to motivate inmates with mental illness toward more constructive behavior. Indications are that the benefits of this approach would far outweigh the risks.

The CA was pleased to learn that, according to information submitted by facility administrators in April 2010, staff had award to a total of 265.3 months of SHU time cuts to 49 inmates, which resulted in a SHU sentence reduction of approximately 5.4 months per inmate. Additionally, 51 STP inmates were moved to less restrictive environments, including to the ICP, BHU, and general population.

### ***Residential Crisis Treatment Program (RCTP)***

The Residential Crisis Treatment Program (RCTP) is intended to temporarily house inmates who experience mental health crises and may be a danger to themselves or others or who otherwise exhibit serious psychological problems. The RCTP at Five Points consists of six observation cells and a 10-bed dormitory intended as a “step down” from the observation cells. In 2006, there were 25 inmates admitted to the RCTP, 45 in 2007 and 42 in 2008 (through October). Staff reported that the observation cells are at capacity more often than not. At the time of our visit, there were five inmates in the RCTP. Staff told us that overall, more inmates enter the RCTP from a SHU or STP than from general population. Staff estimated that a small percentage of inmates are discharged from the RCTP to CNYPC. Inmates in the mental health treatment programs expressed concern that prisoners were physically abused in the RCTP’s observation cells, where there are no cameras.

### **Transitional Services**

The Visiting Committee toured the Transitional Services (TS) program and spoke with the TS civilian staff. We appreciated their thorough responses to our questions. The TS area, which has no windows, was decorated with many posters and had one large u-shaped table. TS staff consists of one civilian and approximately 12 inmates who typically facilitate the classes. The Five Points TS program conducts classes in all three TS phases offered by DOCS, including

Aggression Replacement Training (ART) classes. Of the approximately 20% of survey respondents in ART, 70% were satisfied with the program. Inmates enrolled in Phase I attend a half-day class twice a week for two weeks, which focuses on decision making skills. The inmates we surveyed had higher satisfaction rates with the Five Points TS program than prisoners at other facilities we have visited. Of the survey respondents, 17% had been in Phase II; 69% were satisfied with the program.

Phase III is a five-week, half-day program focused on employment, with lessons in résumé and cover letter writing, interviewing skills, and completing job applications. Staff told us that most inmates in this phase are within four months of their earliest release date. Inmates develop their own résumés, which the Corrections Counselor types and returns to the inmate if he so requests. The Department of Health also makes a presentation on HIV and AIDS. Staff explained that they have a list of agency resources for each county in New York, though it would be helpful to have a database of resources for smaller counties. They also suggested that it would be beneficial to have a multi-disciplinary re-entry team who could address specific needs of inmates and conduct follow-up services, particularly those with serious mental illness who may face difficult challenges on the outside. They estimated that about half of the participants ask for help finding resources. Ten percent of survey participants had been in Phase III at the facility; 80% of them were satisfied with the program, a higher rate than we have found at other prisons.

The TS staff are also responsible for assisting inmates in obtaining their birth certificates and social security cards. They estimated that nearly 80% of inmates enrolled in the program leave with these items. In 2008, however, the facility reported a significant drop in the number of inmates who received their birth certificates and social security cards. During our April 2010 conversation, facility staff explained that this drop was due to a change in DOCS policy that now states that inmates can only request these items four months prior to their release.

## **Safety**

### ***Staff-Inmate Relations***

Sixty-seven percent of surveyed inmates rated relations with staff as bad, worse than many other prisons we have visited. Forty-five percent of survey participants said that relations with staff were worse at Five Points than at other prisons where they had been incarcerated, while 35% said they were about the same and 21% said they were better. Seventy-eight percent said that there are COs who engage in serious misconduct and 89% said there are COs who do a good job. Survey respondents estimated that 30% of COs do a good job and that 59% engage in misconduct. Forty-three percent said they frequently feel unsafe. When we asked them about how unsafe they felt, 41% said they felt very unsafe and 39% said they felt somewhat unsafe. Seventy-seven percent of survey participants said that prison's administration does nothing or very little to prevent abuse.

Similar to our findings at other prisons, 25% of survey respondents said that they had experienced a physical confrontation at least once at the facility. Lower than at other prisons, 51% said there were frequent physical confrontations throughout the prison. It is very

concerning that 32% of the surveyed inmates said that sexual abuse occurred often throughout the prison, more than double the rate we have found at other prisons. Also at rates much higher than at other prisons, 57% said they had experienced an abusive pat frisk and 78% said it occurred frequently throughout the prison.

Inmates also reported that verbal harassment by security staff is a problem at the facility, with 61% saying they frequently experienced verbal harassment and 86% saying verbal harassment occurred frequently throughout the prison. Seventy-six percent said that racial tension contributes to abuse, with 60% reporting that it was common throughout the facility.

We reviewed DOCS computer records concerning Five Points inmates' disciplinary data for the periods January 2003 through August 2006 and calendar-year 2008 and Five Points' Unusual Incident Reports (UIR) for 2003 through 2008 and compared them to system-wide data. Five Points has one of the highest rates among all the state prisons for total number of misbehavior reports issued to inmates. The Five Points' rates for issuing tickets for "refusing an order" and "other disturbances" places the prison near the top of all state prisons. In contrast, the rate for tickets issued to inmates for assault-on-staff and the UIR rate for assault-on-staff place the facility in the middle to lower third of maximum security prisons in the state. It should be noted that the 2008 disciplinary data for assaults on staff contain 29 incidents, but the UIR data for the same period lists only 15 incidents; according to DOCS policy, all assault on staff misbehavior reports should result in an UIR. During our April 2010 conversation, facility administrators explained that of the 29 incidents categorized as assaults on staff, 17 of them were attempted assaults, which do not normally result in a UIR.

The low number of assault-on-staff incidents is inconsistent with inmates' reports of frequent physical and verbal confrontations between inmates and staff and their assessment that inmate-staff relations are poor and worse than at other prisons. Given these inmate perceptions, the prison administration should work to improve inmate-staff relations by increasing effective communication between staff and inmates, improving the grievance system and focusing staff training on nonviolent conflict resolution. Improving staff diversity and providing diversity training to both inmates and staff could reduce racial tension between inmates and staff. Meetings between the administration and the ILC to discuss how to improve inmate-staff relations and meetings that foster dialogue between security staff and inmates could also help reduce tension.

The CA learned that inmates filed 176 grievances regarding staff conduct in 2009, a decrease from 262 staff conduct grievances filed in 2008. According to 2009 UIR data, however, there were 18 assaults on staff recorded during that year, an increase from the 15 assaults on staff in 2008. Despite the slight increase in actual incidents, the decrease in staff conduct grievances may reflect a meaningful reduction in inmate-staff hostility, although without more information, it is premature at this time to assume the issue has been resolved. We look forward to seeing a decrease in both staff conduct grievances and assault-on-staff incidents in the future, and encourage the facility to continue taking measures to ameliorate relations between inmates and staff.

### *Inmate-Inmate Relations*

Similar to our findings at other prisons we have visited, 28% of surveyed inmates said they had been in a physical confrontation with another inmate at least once at Five Points. Similarly, 37% said that fights between inmates were common throughout the facility. Twenty-eight percent said that it was common for staff to be involved in fights between inmates, a rate higher than at many other prisons we have visited.

Some staff reported that gangs were a problem at the facility. Of the surveyed inmates, 88% said that gang activity was common in the prison, higher than at other facilities we have visited. Forty-four percent said that that gang activity was a significant source of violence. Thirty percent reported that drug use was common, with 12% saying that drug use was a significant source of violence. Staff suggested that cameras, particularly in the classrooms, would help reduce gang activity.

We also reviewed DOCS computer data on inmate disciplinary actions for assault-on-inmate and fighting incidents at Five Points for the period January 2003 through August 2006 and calendar-year 2008 and UIR data for 2003 through 2008. Five Point's rate for fighting misbehavior reports is one of the highest among maximum security prisons in the state. The rate for assault-on-inmate tickets places the facility in the upper half of the ranking of maximum security prisons, with 2008 data revealing rates that place the prison in the top third. The UIR rate for assault-on-inmate is also in the upper half of the maximum security prisons for the entire period, and 2007 and 2008 data reveal somewhat higher rates than in earlier years. Our survey results and the DOCS computer data indicate that there is tension and violence between inmates. Since the small, shared cells could exacerbate the problem, screening inmates for rooming compatibility could help alleviate tension.

The CA was pleased to learn that according to UIR data, in 2009 there were 16 assaults on inmates, compared to 28 of these incidents in 2008.

### **Grievance Program**

In 2007, inmates at Five Points filed 2,245 grievances, a five percent decrease from the 2,371 filed in 2006. However, the 2007 grievance rate at Five Points is the fourth highest among all DOCS prisons and more than twice the average rate for the state's prisons. The most highly grieved areas were medical and staff conduct, comprising 17% and 14% of all grievances, respectively. According to DOCS, the medical grievances concerned lack of or untimely treatment, outside referrals, denial of sick call, and failure to accommodate disabilities. The staff conduct grievances alleged harassment, retaliatory misbehavior reports, sexually inappropriate frisks, racial slurs, assault, and verbal abuse.

At the time of our visit, 78% of surveyed inmates rated the grievance system as poor. Many commented that security staff frequently retaliated against, or threatened to retaliate against, inmates who filed grievances, sometimes with physical abuse. Inmates also noted that staff has also incorrectly coded grievances so that the complaints are not properly processed.

Thirty-five percent of survey respondents said they were frequently retaliated against for filing grievances.

During our April 2010 conversation, the CA was pleased to learn that inmate grievances have decreased significantly since our visit. In 2008, inmates filed a total of 1,860 grievances, a 17% reduction from the previous year, and in 2009 inmates filed a total of 1,778 grievances. The highest grieved areas remain medical and staff conduct. We commend facility staff for their success in reducing grievances and encourage them to continue these efforts.

### **Special Housing Unit**

The Special Housing Unit (SHU) at Five Points has a capacity to house 50 inmates and confined 36 inmates when we visited. We received surveys from 20 inmates in the SHU, who had been on the unit for an average of 16 months.

At the time of our visit, there were two inmates on restricted diets (“the loaf”). It is concerning that the facility has used restricted diets to punish inmates in its SHU more frequently than most other prisons. In 2006, 2007 and 2008 (through October), Five Points issued nine, six, and five orders for restricted diets, respectively. Using the loaf as a means to control behavior is ineffective and inhumane.

At the time of our visit, 33 SHU inmates were enrolled in an educational cell-study program. Of the surveyed inmates, 46% were satisfied with this program, a higher percentage than we have found at other prisons. While some inmates reported they did not know about the cell-study program, others complimented the instructor. Similar to other prisons, 50% of survey participants were satisfied with their access to reading material, at least some of the time. More positive than at other facilities, 78% were satisfied at least somewhat with their access to law library materials. Similarly, at higher than average rates, 83% were satisfied with mail services at least sometimes. Seventy-one percent of surveyed inmates were dissatisfied with the food services, with many reporting that food was often served cold and in small portions.

Similar to our findings at other disciplinary housing units, half of respondents said they frequently go to the one hour of allowed recreation per day while the other half said they never go or go only once in a while. Inmates commented that they do not go to recreation because there is little to do in the small recreation area outside their cell. Providing inmates with equipment like chin-up bars could offer an incentive for inmates who otherwise might spend 24 hours a day in their cells. Others mentioned that the footwear they are issued is inadequate for the cold.

At the time of our visit, one third of the SHU inmates were on the Office of Mental Health caseload. Of the SHU inmates we surveyed, 62% said they had received mental health services during their incarceration and 43% said they were currently on the OMH caseload. Five Points SHU inmates rated the facility’s mental health services more negatively than inmates at other disciplinary housing units we have visited. Twelve percent said the facility’s mental health services were good, 30% rated them as fair and 69% said they were poor. Few reported

problems with obtaining their mental health medications. Some inmates reported that they needed mental health services, but were not receiving them.

Inmates in the Five Points SHU rated relations with staff somewhat more positively than inmates at other prisons, with 48% characterizing relations as bad, 19% rating relations as good, and 33% saying relations were equally good and bad. Thirty-nine percent said they frequently felt unsafe and 30% said they never felt unsafe. When we asked inmates how unsafe they felt, 50% said they felt very unsafe. While these rates were similar to our findings at other disciplinary housing units, a higher percentage of respondents (50%) said they had been in a physical confrontation with staff at least once while in the Five Points SHU. Thirty-two percent said they frequently experienced verbal harassment from staff, with many saying that security staff speaks disrespectfully to them and sometimes issues false tickets. SHU inmates generally perceived the grievance process as ineffective, with 88% rating it as poor. Half of surveyed inmates said they had been frequently retaliated against for filing complaints.

### **Staff Training and Supervision**

Staff throughout the prison described the challenges of working with a prison population that has greater mental health needs than inmates at most other prisons. They added that many employees at the prison are not qualified upon hiring to work with the prison's special population. Some staff suggested that the training provided by DOCS and OMH is insufficient in preparing them to work effectively with many inmates. Other staff suggested that the prison's administration did not always appropriately respond to poor staff performance. More frequent and relevant training, combined with greater monitoring and accountability practices could help create a safer and more stable prison environment for both staff and inmates.

### **Recommendations to State Policy Makers, DOCS and Facility Officials**

#### *Programs*

- Fill the academic vacancy.
- Expand the number of inmates taking the GED.
- Expand the onsite postsecondary education program for inmates who have earned their GED or high school diploma.
- Initiate additional vocational programs and jobs that more closely reflect work opportunities in the community.
- Permit inmates to enroll in more than one vocational program.
- Encourage additional inmates to work to obtain Department of Labor certification in a trade.
- Hire Spanish-English bilingual vocational staff.

- Continue to use mechanisms to prevent delays in the delivery of mail and packages to inmates and to reduce destruction or loss of items contained in packages.
- Permit adults to have access to the children's area in the visiting room.
- Ensure that eligible inmates have access to the Family Reunion Program.
- Increase the rate of pay for inmates at all DOCS facilities to reflect increases in the cost of items in the commissary.
- Raise the limit on the amount inmates can spend at the commissary.
- Continue to ensure that requested law library materials are available to inmates in a timely manner.
- Explore lifting the limitation on packages while still permitting inmates to have televisions.

### *Safety*

- Assess the level and causes for tension within the prison and develop a plan to reduce tension and incidents of verbal harassment, including diversity training for staff and inmates.
- Review Unusual Incident Reports, grievances and misbehavior reports to assess whether there are patterns of violence within the prison, whether specific staff members are more frequently involved in inmate-staff confrontations, and whether certain areas within the prison are more frequent locations for violence. Following this review, develop a plan, including additional staff training, to continue to reduce violence between inmates and staff and among inmates.
- Meet with the ILC and IGRC to discuss ways to reduce tension at the prison and to improve the effectiveness and credibility among inmates of the grievance system.
- Establish regular meetings that foster dialogue between inmates and security staff.

### *Medical Care*

- Perform a needs assessment for physician, physician assistant and nursing services and consider expanding clinic provider and nursing services for the prison.
- Review the quality of the sick call encounters and ensure that all sick call nurses adequately address inmates' medical needs.

- Review the quality of medical encounters between inmate-patients and clinic providers to ensure that inmates' medical conditions are promptly diagnosed and properly treated.
- Assign each inmate with a chronic or serious medical condition to a clinic provider responsible for managing all the medical care for that patient.
- Review the procedures for identifying HIV-infected inmates to ensure that all inmates at risk for the disease are encouraged to learn their HIV status and to seek medical treatment for their condition.
- Re-evaluate inmates infected with HIV and/or Hepatitis C to determine if the patients are being referred promptly to specialists to evaluate their condition and to assess if more patients are appropriate candidates for treatment.
- Improve the timeliness of specialty care appointments and initiate a review of completed consultations to determine whether there has been adequate follow-up to the recommendations made by the specialists.
- Renew efforts to hire a pharmacist and to reopen the prison pharmacy.
- Conduct regular meetings among the Inmate Liaison Committee, Inmate Grievance Resolution Committee and the medical staff to discuss inmates' concerns with healthcare.
- Conduct more frequent meetings of the facility quality improvement committee, and enhance its quality improvement activities including chart reviews of the medical records of a representative sample of inmates with chronic conditions or those who utilize specific medical services

### ***Dental Care***

- Review the protocols for determining whether to perform an extraction as opposed to restorative work to assess whether reasonable efforts are being made to avoid unnecessary extractions.

### ***Mental Health Services***

- Provide additional residential mental health treatment for general population inmates with serious mental illness by expanding the ICP program at Five Points and other DOCS facilities.
- Establish a meeting between the Superintendent, the supervising mental health staff, and ICP and STP inmates to review their grievances and assess inmate relations with security staff. The meeting should have particular focus on whether staff verbal harassment and physical confrontations occur and possible sources of this behavior and so that corrective action may be taken.

- Discontinue use of the caged treatment units for group therapy in the STP and institute an individualized determination for each patient about whether restraints during group therapy sessions are appropriate.
- Review the records of recent STP inmates who have remained on the unit for more than six months, have been removed from the STP program due to misconduct or have received multiple tier III violations. Convene a meeting of STP security and mental health staff to discuss these cases to assess why some individuals were unsuccessful in the program.

### *Special Housing Unit*

- Institute a system-wide policy to provide inmates in SHUs throughout the state with athletic equipment like balls or chin-up bars when they go to recreation.
- End the practice of punishing inmates with restricted diets in the SHU.

### *Staffing*

- Increase the amount of mental health training for staff.
- Ensure that adequate mechanisms for monitoring of staff performance are in place, and that responses to poor performance are appropriate.