



## John Howard Association of Illinois

375 East Chicago Avenue, Suite 529 Chicago, IL 60611  
Tel. 312-503-6300 Fax. 312-503-6306 www.thejha.org

### 2013 Update Monitoring Visit to Menard Correctional Center

Menard Correctional Center (Menard), by far the largest of the three male maximum-security (max) facilities within the Illinois Department of Corrections (IDOC), is located about two and a half hours south of Springfield, and almost six hours south of Chicago, in Menard, IL. Menard operates a Reception and Classification center (R&C) and a Medium Security Unit (MSU). This report updates JHA's previous reports on Menard max.



#### Vital Statistics:

Total Population: 3,769

Maximum-Security Facility Population: 3,332

Maximum-Security Rated Capacity: 2,600

Maximum-Security Operational Capacity:  
3,417

Average Annual Cost Per Inmate (FY 2012):  
\$20,507

Committing offenses: 56% Murder, 26% Class X, 7% Class 1, 6% Class 2, 2% Class 3, and 3% Class 4 felonies.

*Source IDOC January 2014*

#### Key Observations:

- Menard has successfully implemented positive behavioral incentives and increased positive activity, while substantially decreasing use of lockdown.
- Since JHA's December 2012 visit, Menard has improved inmate access to law library and the grievance system.
- While transparency and accountability at the facility increased in several regards, continued improvements are necessary.
- Recent media coverage of inmates in Administrative Detention on hunger strike increased public interest in Menard.

# 2013 Update Monitoring Visit to Menard Correctional Center

## Year in Review

JHA's previous monitoring report, published in April 2013, addressed a number of critical concerns.<sup>1</sup> At that time, Menard experienced several high profile events against the backdrop of IDOC facility closures. JHA observed that, "incidents of staff assaults and recent inmate deaths have brought attention to high tensions at Menard, where physical plant issues, constant lockdowns, and allegations of unprofessional staff conduct and neglected inmate grievances are common." IDOC had to confront these longstanding, challenging issues.<sup>2</sup> In communications with administrators regarding the previous report, we discussed the importance of transparency and accountability in making and documenting improvements.

Factors working against facility improvements include ongoing known issues with physical plant, staffing, and crowding. Yet Menard has made progress despite the max facility absorbing about 100 additional inmates since the time of our prior visit.<sup>3</sup> Unfortunately, some positives noted in our previous report, such as availability of single-cells for many inmates in mental health housing, have been erased.<sup>4</sup> With double-cells as small as 4 feet 8 inches wide, inmates at

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<sup>1</sup> This report updates and supplements JHA's prior Menard reports, available at <http://thejha.org/menard>. This report is based on an abbreviated monitoring visit conducted on December 10, 2013 and ongoing communications with inmates, loved ones, and staff. IDOC officials and Menard administrators reviewed and fact-checked a draft of this report and it was last discussed with JHA on February 19, 2014. No factual substantive changes have been made since that time prior to publication. All statements of opinions and policy recommendations herein are JHA's unless otherwise stated. JHA cannot independently confirm or deny the factual validity of others' reports set for herein, as we must rely on inmates' and IDOC's reports to supplement our observations and policy research. By tracking issues by facility we identify areas to focus our advocacy work, which provides IDOC with an important opportunity to respond and educate inmates and the public about its challenges, successes, and procedures. See JHA's 2013 publication *How JHA's Prison Monitoring Works*, available at [www.thejha.org/method](http://www.thejha.org/method). Inmates may send privileged mail to JHA, 375 E. Chicago Ave., Suite 529, Chicago, IL 60611. Staff and other concerned parties may also reach us by phone and email.

<sup>2</sup> In part because research suggests that such tensions produce greater gang violence and that reported levels of violence by staff against inmates correlates with violence among inmates. See e.g., "Confronting Confinement: A Report of the Commission on Safety and Abuse in America's Prisons," p. 23, available at [http://www.vera.org/sites/default/files/resources/downloads/Confronting\\_Confinement.pdf](http://www.vera.org/sites/default/files/resources/downloads/Confronting_Confinement.pdf).

<sup>3</sup> In the reorganization due to facility closures, Menard received inmates from other facilities. Several of these inmates claimed that they were transferred to the max facility from medium facilities punitively due to their litigation against IDOC. IDOC responded that they deny transfers happen for anything other than appropriate classification and population management. Administrators acknowledged that inmates who are difficult to manage are most likely first to be transferred. At Menard, some inmates complained that they were housed in North House (which contains segregation, administrative detention, and mental health housing) because they litigated. We reiterate that while inmates do not have a right to be housed in particular locations, and while housing inmates with histories of demanding more staff attention together may have legitimate facility management justifications, retaliation is never an appropriate response to an inmate voicing a concern or constitutional right. IDOC responded that they agree and stated that they do not practice retaliation. Given Menard's absorption of inmates with reputations at other facilities for being especially violent, problematic, or litigious, Menard's accomplishments over the past year are even more impressive.

<sup>4</sup> JHA corresponded with one inmate receiving mental health treatment who had not been single-celled despite admittedly repeatedly attacking his cellmates because he cannot abide the closeness to another person. JHA shared

Menard may experience the paradoxical psychological detriment of both being crowded and isolated.<sup>5</sup> Staff expressed that they are still struggling to appropriately double-cell inmates, stating that it can take six to eight moves to get a new inmate in. Further, crowding creates greater demands on shared space and staff. Luckily Menard gained approximately 79 security staff from facility closures in the past year.

Against this backdrop, Menard has substantially decreased its use of lockdowns, which was a primary concern of JHA's prior report. Less lockdown means that most inmates are getting out of their cells more often. In 2012, Menard spent more than two-thirds of the year, 250 days, on some level of lockdown, and it was not uncommon for the facility to have a lockdown lasting a month or more at a time. In the last year, this was more than cut in half, with most of the full lockdown days occurring in early 2013,<sup>6</sup> suggesting a continued positive trend with the exception of the recent lockdowns due to flu and extreme weather.<sup>7</sup>

### **Recommendations**

- JHA recommends continued support for programming expansion and quality of life improvements at Menard. To do so, Illinois must fund needed physical plant repairs and staffing based on current population, and IDOC must commit to investment in staff training.
- Based on observed successes, JHA continues to recommend Illinois expand prison hospice and assisted living programs, while exploring compassionate release options.
- JHA repeats our concerns regarding fair application of restrictive classifications without transparency or reviewability. We recommend that IDOC reevaluate its use of administrative detention, which is intended to be nondisciplinary. Likewise we recommend review of application of the program designating weapons violators/staff assaulters. For both programs IDOC must clearly communicate rules and procedures.

*Administrators have informed us that IDOC is currently reviewing policies and procedures for these programs. JHA will continue to monitor these and other issues.*

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this information with IDOC; however, we cannot independently confirm or deny validity of inmate reports. Inmates housed in the mental health housing area which had been double-celled since our last visit also complained of the difficulty of not having a shelf to put a television on. Also, inmates complained about the lack of phone on yard. Administrators reported they continue to work with Securus to get the yard phone installed and that as of time of this publication, the phones had arrived but because the ground is still frozen they are waiting to be installed. JHA hopes this will soon be possible.

<sup>5</sup> See e.g. *Madrid v. Gomez*, 889 F. Supp. 1146, 1229-30 (N.D. Cal.1995) (“The combination of being in extremely close proximity with one other person, while other avenues for normal social interaction are virtually precluded, often makes any long-term, normal relationship with the cellmate impossible. Instead, two persons housed together in this type of forced, constant intimacy have an “enormously high risk of becoming paranoid, hostile, and potentially violent towards each other.””)

<sup>6</sup> IDOC noted that 85 lockdown days resulted from one incident in early February 2013 of inmate violence towards staff in the Chapel.

<sup>7</sup> Administrators reported as of December 2013, there had be 68 days of partial lockdown and 54 days of full lockdown compared to 167 and 89 days in 2012.

Below the following are addressed: Positive Activity, Grievances, Physical Plant, Staffing & Training, Violence, and Restrictive Classifications (Administrative Detention and Weapons Violators/Staff Assaulters).

### *Positive Activity*

Menard administrators noted that in the past year they had been successfully utilizing behavioral incentives for inmates, such as increased recreation for positive behavior. Administrators continued to make efforts to communicate reasons behind policies to staff. This approach appears to have contributed to the success of the reward system. Staff buy-in has continued to increase as they have seen positive effects without safety compromises. JHA unqualifiedly endorses methods that reinforce positive behavior.<sup>8</sup>

To showcase some positive changes, Menard administrators showed JHA some appreciative notes from inmates and loved ones, who have been thankful for small kindnesses at Menard, like administrators' efforts to communicate, or a replacement mattress or a donated chocolate bar at Christmas. JHA has also appreciated administrators' and staffs' responsiveness to issues we have raised,<sup>9</sup> although IDOC has limited our exploration of some potentially legally sensitive topics.

At the time of the 2012 visit, there were about only 365 max inmates with work or school assignments out of more than 3,000. As of the end of 2013, this number was up to 550 inmates. Administrators have created assignments for inmates that benefit others, such as the inmate yoga instructor and assisted living aides. They also hope to be able to use inmate workers to repair the facility cemetery, including an art contest to design an entryway.<sup>10</sup> Many Menard inmates would appreciate an opportunity to do something for others; administrators noted that this year inmates participated in donating to the state charitable initiative "Keep our Kids Warm & Safe."

Administrators expressed that they have been inspired by programming at Angola, the nation's largest maximum-security facility, where it is estimated fewer than 200 of the 5,000 inmates will ever leave. Angola's warden has advanced a clear public message that the role of corrections is not to inflict further punishment, as being incarcerated is the punishment. Angola emphasizes restoration of inmates' dignity through responsibility and labor, and nearly every inmate has a work assignment. JHA notes that while Angola is not without controversy, particularly for

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<sup>8</sup> However, we must note that inmates in housing areas that are not included in the reward program reported that they were disadvantaged by others' extra use of yard. While some inmates reported that they had less frequent use of yard due to others' increased use of the space, IDOC responded that there was no resulting disadvantage and that these inmates merely did not have extra reward yard time. Menard administrators should remain mindful of such concerns when considering best options for the facility as a whole with space limitations.

<sup>9</sup> For example, administrators expressed willingness to consider increasing privileges where physically possible for R&C inmates, particularly those housed in the unit for extended terms. Further, inmates continue to request to be able to give their loved ones photographs of themselves. The costs associated with visiting the facility are prohibitive for many people. Administrators considered JHA's suggestions about how this could be accommodated safely with security controls. JHA is confident that providing this service with proper controls would provide immeasurable comfort to inmates and loved ones. Of course, should video visitation be implemented in a pilot program as planned at Menard, people who are unable to visit but who can afford this service will once again be able to see their loved ones. We will continue to monitor the situation and advocate for increased family contact.

<sup>10</sup> The facility is actively soliciting donations for this project, if you would like to contribute please contact Assistant Warden of Programs Kim Butler.

crossing lines between church and state, one factor that has improved Angola's reputation is transparency and media access. JHA believes that permitting inmates to have constructive activity that improves facilities is a win-win proposition, provided participation is voluntary. Moreover, experts and experienced correctional staff cite inmate idleness as a source of security problems.<sup>11</sup>

Since our 2012 visit, Menard initiated an assisted living program that provides work opportunities for some inmates and essential help for others.<sup>12</sup> JHA was particularly impressed with our observations of this program, which administrators hope to expand into hospice work. As commented on extensively in JHA's previous reports, healthcare needs continue to increase, while healthcare staffing is inadequate at Menard and throughout IDOC.<sup>13</sup> We again encourage Illinois to consider compassionate release and IDOC to plan for the growing needs of aging or seriously infirm inmates, who pose little safety risk, but require significant resources.

Subsequent to JHA's 2012 visit, the Menard library renovation was completed. Although some inmates complain about the strictness of the new law library policies, JHA was impressed that turnaround times for requests from inmates with imminent deadlines have improved to about a week for most housing units. We have also received significantly fewer complaints about access. JHA continues to advocate that IDOC implement greater electronic legal resources.<sup>14</sup>

### ***Grievances***

JHA continues to get complaints from Menard about various issues and grievance procedures.<sup>15</sup> However, we believe there have been some demonstrated improvements and we encourage

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<sup>11</sup> See e.g., "Confronting Confinement: A Report of the Commission on Safety and Abuse in America's Prisons," p. 12 ("few conditions compromise safety more than idleness"), available at [http://www.vera.org/sites/default/files/resources/downloads/Confronting\\_Confinement.pdf](http://www.vera.org/sites/default/files/resources/downloads/Confronting_Confinement.pdf).

<sup>12</sup> We noted the assistants' knowledge of the needs of inmates they were paired with, and based on their input we were able to intervene on behalf of some inmates who were having difficulty getting medical and other issues addressed. One diabetic elderly inmate interviewed had been receiving outside cancer treatments but between his refusal based on his reluctance to endure the lengthy transport while shackled and weather related appointment cancelations, he had not had a treatment in more than six months. IDOC responded that they respectfully point out refusal is the inmate's decision and right.

<sup>13</sup> At the time of JHA's 2012 visit, the average age of inmates at Menard was 38, and 17 percent of the facility's population was over the age of 50, which is considered "elderly" as inmates are physiologically older than persons in the general population due to unhealthy living conditions prior to and during incarceration. See e.g., American Civil Liberties Union, *At America's Expense: The Mass Incarceration of the Elderly*, 1-98, p. v. (June 2012), available at [https://www.aclu.org/files/assets/elderlyprisonreport\\_20120613\\_1.pdf](https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf).

<sup>14</sup> We were told last year electronic legal resource kiosks may be part of the new technology contract bundled with video visitation that will be piloted at Menard; however, it does not appear that the selected provider, Global Tel Link (<http://www.gtl.net/>), provides such services. See discussion of the technology contract: Robert McCoppin, "Video visits at Illinois jails praised as efficient, criticized as impersonal," *Chicago Tribune*, (1/14/14), available at [http://articles.chicagotribune.com/2014-01-12/news/ct-jail-video-visits-met-20140112\\_1\\_inmates-and-visitors-video-visitation-john-howard-association](http://articles.chicagotribune.com/2014-01-12/news/ct-jail-video-visits-met-20140112_1_inmates-and-visitors-video-visitation-john-howard-association). At the time of this report, Menard is waiting for a site visit from the contractor to plan for setting up kiosks.

<sup>15</sup> In fact in our prior report, we only discussed some areas of inmates' grievances (potentially vulnerable inmates (celling issues), access to counselors, allegations of staff misconduct, and general issues with using the grievance system) and did not even begin to address more typical complaints about non-pressing matters. We wrote, "JHA received numerous complaints related to lockdown and lack of movement, library access, healthcare, housing status, physical plant, and quality of life issues. Given the pervasiveness of serious concerns, more typical complaints about

inmates to continue to advocate for themselves through the grievance system. This necessary and appropriate administrative procedure creates documentation of problems for internal oversight within the system. We also suggest inmates continue to keep JHA informed.<sup>16</sup> Since the time of our prior visit, the facility has increased staffing from one grievance officer to three. Administrators reported that they have gone from receiving “stacks” of emergency grievances to receiving only a few emergency grievances weekly, suggesting that more inmates feel their issues are addressed through the regular grievance channels. Additionally the facility has taken the sensible step to restrict grievance box keys to a few individuals. JHA continues to recommend review of grievance procedures and greater inmate access, such as making locked grievance boxes more available. In our informal review comparing the grievances sent to JHA by inmates to the grievances formally acknowledged, recorded, and responded to by the facility, we found less disparity than in the past. We observed inmates were sometimes able to resolve issues by utilizing the grievance procedure, such as contesting tickets or resolving property issues. Further, we were pleased that in some instances where inmates were told their grievances were “denied” or “moot,” that Menard staffs’ review of the grievance still produced a positive result for inmates – for example, changing the practice of interviewing inmates at the bars of their cells regarding sensitive private medical information or fixing maintenance issues. JHA continues to receive some complaints from Menard about inmates’ legal and privileged mail being read or not opened in front of inmates, as is agency policy. IDOC responded that they deny this occurred and wished to note that JHA cannot confirm or deny the validity of particular inmates’ reports. JHA recently reiterated the need for staff retraining on privileged and legal mail issue with IDOC officials, because we received a copy of a grievance response (from a different facility) misstating agency policy. IDOC responded that they regularly retrain staff.

JHA emphasizes the importance of staff professionalism when grievances are answered. In a grievance response forwarded to JHA by an inmate regarding inadequate heating and no hot water,<sup>17</sup> dated December 20, 2012, the counselor responded on the grievance form that maintenance was addressing the issue, but also sarcastically added, “the pioneers showered, bathed & shaved in the cold without heat.” IDOC responded that this response is unacceptable and asked for information so they could follow up with possible discipline, if appropriate. However, the counselor has retired. Lack of professionalism needlessly inflames relations between inmates and staff, and can have an adverse impact upon operations. Experienced correctional staff note that unnecessary tensions between inmates and staff make their jobs harder and more dangerous. Hence it is in everyone’s best interest, as JHA continually stresses, that inmate grievances be addressed professionally.<sup>18</sup>

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food, including portion size, quality and access to special diets; cleanliness of cells; commissary issues; pests and rodents; and condition and availability of clothing and bedding are not detailed this report,” available at [www.thejha.org/menard](http://www.thejha.org/menard).

<sup>16</sup> Inmates may send privileged mail to JHA, 375 E. Chicago Ave., Suite 529, Chicago, IL 60611. Staff and other concerned parties may also reach us by phone and email.

<sup>17</sup> IDOC responded on the issue of inadequate heating that nearly all cell houses are consistently above 65 degrees, and IDOC checks temperatures every three hours, with records kept. However, IDOC stated that in one cell house (West) they agree it is hard to achieve adequate heat on the coldest days; thus, Menard utilizes portable gallery-coverage heaters to achieve 62 degrees at night, but during day with line movement, when doors are open, it is more difficult to achieve that temperature.

<sup>18</sup> An inmate grievance system is a fundamental element of a well-functioning prison system. “When inmates view the system as credible, they can also serve as a source of intelligence to staff regarding potential security breaches in addition to excessive force or other staff misconduct. Not only should the grievance system be readily available and



### ***Physical Plant***

Menard opened in 1878. In addition to the irretraceable problem of small,<sup>19</sup> “medieval-like”<sup>20</sup> cells, Menard has serious maintenance needs that will cost more than \$12 million to address. As stated in the prior report, “failing to address needed physical plant issues not only undercuts positive programming initiatives, but it also undermines the safety and security of inmates and staff, which lead to greater long-term costs.” JHA again recommended that “given that many of the physical plant issues cannot be easily resolved, Menard must closely monitor water, temperature, and ventilation issues, which could pose health and safety concerns.” IDOC responded that they agree with this statement and that they do monitor and record all of these issues. Since the prior report, Menard has been funded for an \$812,000 roof replacement project;<sup>21</sup> however, Illinois must further invest in this facility’s infrastructure.

While we continue to hear issues with heat and plumbing from inmates, we also have been shown that staff are attempting to address known issues. Many Menard staff members share inmates’ concerns and recognize that poor conditions make matters worse for inmates and staff alike. We continue to encourage inmates to document concerns via the grievance procedure. It is important that inmates report with specificity: who, what, when, where, how have they attempted to resolve the issue (if applicable), so that issues can be recorded and investigated internally and externally if necessary. Documenting issues at the facility will help Menard gain support from those holding Illinois’ purse strings to fund repairs.

### ***Staffing & Training***

Although Menard gained 79 staff from the closures of other Southern facilities in 2013, staff vacancies continue to be a barrier to Menard’s efforts to enhance safety and increase programming. While ongoing litigation related to mental health and healthcare within IDOC may eventually address such staffing needs at Menard, JHA continues to advocate for more timely solutions to this ongoing issue and healthcare staffing at Menard will be revisited in a later report (though we must note almost of fifth of the authorized healthcare headcount is currently not filled).

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easily accessible to all inmates, it should also allow prisoners to file their grievances in a secure and confidential manner without threat of reprisal, and have them answered by staff that performs its responsibilities in a responsive and prompt manner.” Ashley M. Belich, *Note: Dobby v. Illinois Department of Corrections: A Small Piece of a Growing Policy Puzzle*, 5 Seventh Circuit Review 272 (2009), available at <http://www.kentlaw.iit.edu/Documents/Academic%20Programs/7CR/v5-1/belich.pdf>.

<sup>19</sup> Cell dimensions for the East and West Houses are 6’4” x 10’4” x 7’6” (width x length x height) and for North only 4’8” x 10’8” x 7’8”. Some video footage showing Menard interiors and administrators was recently used in a CBS affiliate KFVS12 report, *I-Team: Tough Justice and crowded prisons*, (November 7, 2013) available at <http://www.kfvs12.com/story/23907179/i-team-tough-justice-crowded-prisons>. JHA continues to encourage transparency including media access to our prisons.

<sup>20</sup> See Statement of Fred Cohen, *Reassessing Solitary Confinement: The Human Rights, Fiscal and Public Safety Consequences Hearing Before the Senate Judiciary Subcommittee on the Constitution Civil Rights, and Human Rights*, June 19, 2012, available at <http://www.judiciary.senate.gov/resources/transcripts/upload/061912RecordSubmission-Durbin.pdf>.

<sup>21</sup> See e.g., *Gov. Pat Quinn announces roof replacement project at Menard*, (December 19, 2013) available at <http://www.kfvs12.com/story/24267403/gov-pat-quinn-announces>.

For non-healthcare staffing at Menard, the need for more support staff was a common refrain. Administrators stated that counselors, mental health staff, leisure time services, chaplains, maintenance (currently about a fourth of authorized maintenance positions are vacant) and clerical staff are needed. Shortages of indispensable clerical positions, such as mailroom staff, are chronic problems at Menard, as at other IDOC facilities. IDOC responded that as of February 7, 2014, mail turnaround at Menard was two days for outgoing and six days for incoming. Menard inmates complained about the lack of Spanish language translations at the facility and IDOC needs more bilingual staff. IDOC must acknowledge and address such issues. The union and agency must collaborate to target funding priorities.

Secondly, JHA believes IDOC must make a greater investment in ongoing staff training. Staff interviewed expressed the importance of educating line staff about agency policies and procedures, such as for grievances or tickets, stating nine times out of ten security line staff will be the ones having the most interaction with inmates. Line staff are also a vital conduit between inmates and healthcare in emergency situations. Staff shared they would also benefit from increased trainings in healthcare, mental health, sanitation, conflict resolution and basic interpersonal communication skills, to name a few. However, IDOC annual staff trainings have been reduced instead of increased. Staff also commented that computer-based programs are not ideal for teaching many necessary skills.

JHA observed at Menard that some inmates were getting misinformation from staff; for example, inmates in R&C were told they did not have law library access. It is particularly important that staff interacting with inmates just entering IDOC be able to give proper information. Also, we have been disappointed by reports suggesting that some staff have not implemented current correctional best practices regarding issues such as healthcare privacy and reports of prison rape. IDOC responded that they deny this. JHA notes that we have seen that administrators have made efforts to correct practices, but this does not mean that mistakes have not been made.

The best way to gain professionalism among staff is by offering education about the reasons behind policies, providing skill building training, and creating a professional environment wherein staff will hold one another to appropriate standards. JHA agrees with Menard staff that more cross training of line staff is important and would improve facilities. Educating staff about inmates' rights within the prison system is particularly important and will help ameliorate tensions within the facility.

At Menard, as at many IDOC facilities, there are insufficient counselors. When Menard has all authorized counselor positions filled, which it does not, each averages caseloads of over 235 inmates. Making matters worse, staff reported that counselors do not have computers readily accessible to do necessary tasks like implementing the planned inmate risk assessment tool.<sup>22</sup> IDOC responded that this is untrue and that while not every counselor has an individual computer, they are readily available.

It is important to remember also that Menard staff is shared between the R&C, medium, and max facilities. This is problematic, as it creates a situation where staff, particularly programming

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<sup>22</sup> Described in JHA's special report *Reforming Illinois' Prison System from the Inside Out*, available at <http://www.thejha.org/rfp>.



staff, are spread too thin. Menard currently has three educators for 3,761 inmates.<sup>23</sup> Menard has only one Leisure Time Specialist, who is currently focusing on the impressive inmate art program and veterans' group (both initiated in 2013), but who has also facilitated intramural sports in the past year, all with max inmates. Staff stated that another chaplain is needed, and some inmates have complained to JHA about lack of religious programming. Administrators have attempted to facilitate more positive activity through bringing in volunteers. However, most of the volunteer assistance has been through religious organizations. More diverse volunteer assistance, in areas such as education and test proctoring, would be welcome.<sup>24</sup>

There is a common misconception that security staff object to positive activity within facilities. Staff reported that they do not mind being diverted from security duties to assist with programming, so long as they feel that doing so does not compromise security. IDOC responded that all "mandatory security posts," as defined by agreement with the union and with input from experienced staff, are covered at all times. Staff expressed interest in expanding vocational activities and work opportunities for inmates. We have heard repeatedly from staff that positive activities help them out as well, while idleness creates tensions.<sup>25</sup>

### ***Violence***

Despite Menard's decreased use of lockdown, population growth and gaining inmates thought of as problematic within IDOC, there were no increases at Menard of any of the following measures used to evaluate violence or negative trends compared to the prior year: staff assaults, serious inmate assaults, shots fired, chemical agents utilized, inmate disciplinary reports, and weapons confiscated.<sup>26</sup> In some instances these numbers were down substantially.

The total numbers of staff and inmate assaults reported by administrators in 2013 were lower than would be projected based on Fiscal Year 2012 agency averages.<sup>27</sup> Although the overall number of staff assaults was down from 31 to 21 year-to-date at the time of the visit, the number serious staff assaults increased, with Menard recording five serious inmate-on-staff assaults in 2012 compared to eight in 2013. The second area of increase was in the number of inmate assaults, with Menard reporting 109 inmate-on-inmate assaults in 2013, compared to 80 in the

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<sup>23</sup> The October 2013 IDOC Quarterly report reflects about 125 max inmates and 19 medium inmates served in educational or vocational programming, with no ABE or GED offered at the medium facility. IDOC quarterly reports are available at <http://www2.illinois.gov/idoc/reportsandstatistics/Pages/QuarterlyReports.aspx>.

<sup>24</sup> The Freedom Gods Way group (<http://mannymill.wordpress.com/tag/freedom-gods-way/>) recently conducted a three-day seminar for inmates and plan to return. If you are interested in volunteering at Menard please contact the Assistant Warden of Programs or Chaplain. Volunteer approval can be a lengthy process.

<sup>25</sup> See e.g., "Confronting Confinement: A Report of the Commission on Safety and Abuse in America's Prisons," p. 12 ("few conditions compromise safety more than idleness"), available at [http://www.vera.org/sites/default/files/resources/downloads/Confronting\\_Confinement.pdf](http://www.vera.org/sites/default/files/resources/downloads/Confronting_Confinement.pdf).

<sup>26</sup> Administrators reported as of December 10, 2013, the following numbers (compared to the number for 2012 in parens): 21 staff assaults (31), 41 serious inmate assaults (48), seven shots fired (25), 35 chemical agents utilized (39), 2,587 inmate disciplinary reports (2,863), and 61 weapons confiscated (121). Administrators also reported that the weapons they had recovered in the prior year had not been as dangerous as the sort they were finding previously.

<sup>27</sup> See Illinois Auditor General IDOC Financial Audit and Compliance Exam for the Period Ending June 30, 2012, p. 196, available at <http://www.auditor.illinois.gov/Audit-Reports/Compliance-Agency-List/Corrections/FY12-Corrections-Fin-Comp-Full.pdf>. From these agency averages, 31 staff assaults and 134 inmates assaults would be projected based on Menard's staffing and population, while actual numbers reported were lower at 21 and 109.

prior year (serious inmate assaults slightly decreased in 2013). There are several reasons to believe that the reported increases in these categories do not, in fact, reflect an overall uptick in violence at the facility. For one, administrators stated that assaults are now being captured more comprehensibly than in the past in that Menard is now adhering to the letter of the IDOC Administrative Directives (agency policies derived from the law set out in the Illinois statutes and administrative code), which can broadly define any physical contact as an assault.<sup>28</sup> Staff expressed a belief that with the facility closures and resulting movement of populations, it was predictable that Security Threat Groups (STGs) would fight amongst themselves for a period of time to reorganize power structures. They noted that the introduction of change, uncertainty or instability in the prison environment is often linked to violence. Another hypothesis for the increased reports of assaults at Menard could be that staff may also be doing a better job at documenting inmate-on-inmate violence or inmates may be more comfortable reporting instances and seeking staff assistance. With any instance of violence, inmates and staff should attempt to document and report as much information as possible so there can be an appropriate investigation and proactive measures taken to prevent future like occurrences.

### ***Restrictive Classifications (Administrative Detention and Weapons Violators/Staff Assaulters)***

At the time of the 2013 visit, 24 inmates were in Administrative Detention (AD), a “nondisciplinary status” intended to remove the inmate from general population, *i.e.* these inmates are segregated for either for investigative or safety and security motives.<sup>29</sup> The number of AD inmates at Menard was up from 14 inmates at the time of JHA’s previous visit, prior to the closure of the supermax Tamms Correctional Center (Tamms); however, there is not a direct correlation between AD and former-Tamms inmates. In fact, IDOC clarified that only three inmates came to Menard from Tamms at the time of the closure, and all were subsequently recommended for release from AD. IDOC stated that five additional former-Tamms inmates are not in AD status but are in segregation housing with elevated security.

Under Illinois law, the Chief Administrative Officer (CAO, *i.e.* warden or acting warden), with approval of the IDOC Director, Deputy Director, or Assistant Deputy Director, may place an inmate in AD for 90 days, and the CAO shall review the inmate every 90 days for continued placement and document the decision in writing.<sup>30</sup> Living conditions for AD must minimally meet segregation standards.<sup>31</sup> However, AD is not meant to be equivalent to segregation. Illinois law on AD on its face provides no right for inmates to be notified of reasons or appeal AD status. In practice, the legally required 90-day reviews seem to be used for an inmate to progress (if merited based on the CAO’s judgment) through phases corresponding to improved levels of

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<sup>28</sup> Ideally, we believe assault data should separately account for both the nature and degree of the victim’s injury and the culpability of the assaulter in a manner that would allow administrators to more accurately classify, analyze, and respond.

<sup>29</sup> In accord with prevailing research and expert opinions in the disciplines of corrections, criminology, psychiatry, sociology and medicine, JHA continually advocates that IDOC reduce use of segregation and that: (1) the use of long-term isolation be prohibited with respect inmates who have a history of mental illness because of its tendency to exacerbate mental illness; and (2) the use of long-term isolation be strictly circumscribed across the board, and employed with caution, for minimal periods of time, and only when required to preserve inmate and staff safety.

<sup>30</sup> 20 Ill. Admin. Code 504.660 Administrative Detention.

<sup>31</sup> See 20 Ill. Admin. Code 504.620 Segregation Standards and 20 Ill. Admin. Code 504.670 Recreation for Persons in Segregation Status.

privileges. Administrators stated that there were six inmates in Phase 1, one in Phase 2, and 12 in Phase 3. Under the law, an inmate should be removed from AD after 90 days if appropriate, but in seems many inmates must spend at best nine months in segregation conditions. Administrators reported that the average length of placement in AD at Menard was 10.5 months, compared to 23.6 months for segregation placements. In the past, inmates with segregation terms longer than six months were commonly transferred to Pontiac Correctional Center. IDOC has taken the position that placement in AD is ungrieveable, and answered grievances about AD status simply state, “Administrative Detention is an administrative decision.”

Practically, JHA cannot see how current IDOC AD policies are appropriate.<sup>32</sup> Whether or not IDOC AD is “nondisciplinary” or “non-punitive” it is certainly as, or more restrictive, than other disciplinary status within IDOC with fewer protections. IDOC inmates with disciplinary infractions have greater procedural rights to notice and appeal than AD inmates, as do inmates in “indeterminate segregation” status (where every 180 days the inmate is entitled to an interview and notice of the decision, and the right to petition for reductions in segregation term).<sup>33</sup> IDOC inmates in investigative status typically must be ticketed or released back to general population within 30 days. In the federal system, inmates in AD status can expect to receive a copy of an Administrative Detention Order detailing the reasons for their placement within a day, will have their placement reviewed within three work days, within a week the inmate will be able to attend a placement hearing, every week thereafter the placement will be reviewed with a monthly hearing the inmate may attend, and lastly the inmate may grieve placement in AD.<sup>34</sup>

JHA believes IDOC AD is proving to be an unappealable, indefinite placement in segregation without a ticket or written reason. IDOC responded that AD is not segregation because added

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<sup>32</sup> We hope it will not take the lengthy and costly process of a court having to decide the question of whether the policy is constitutional. We note IDOC’s current AD practices clearly do not meet the recommendations of the American Bar Association’s Standards on Treatment of Prisoners, Standard 23-2.9 Procedures for placement and retention in long-term segregated housing, available at [http://www.americanbar.org/publications/criminal\\_justice\\_section\\_archive/crimjust\\_standards\\_treatmentprisoners.html](http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_treatmentprisoners.html).

<sup>33</sup> See 20 Ill. Admin. Code 504.115 Indeterminate Segregation Placement of Adult Offenders.

<sup>34</sup> 28 CFR §541.26 Review of Placement in the SHU. Federal inmates detained in Special Management Units (SMUs), which are used similarly to the purported former use of Tamms to isolate dangerous gang leaders, are given notice and hearings prior to placement, appeals, and 30 day reviews. SMUs have phases like IDOC AD, with a required inmate orientation to the phase system, documentation of decisions regarding progress, and explicit redesignation criteria. See Bureau of Prisons, Program Statement, Special Management Units, 11/19/2008, available at [http://www.bop.gov/policy/progstat/5217\\_001.pdf](http://www.bop.gov/policy/progstat/5217_001.pdf). This is not to say the federal system is perfect, in fact, a recent General Accounting Office (GAO) review found that “facilities did not consistently document conditions of confinement and procedural protections as required under BOP policy guidelines. For example, 38 out of the 45 reports identified deficiencies such as missing documentation, monitoring rounds not being consistently conducted, or inmate review policies not fully implemented. In our independent analysis of 51 segregation housing unit case files, we reviewed 35 files focused on determining if BOP regularly monitors inmates’ status, conditions of confinement, and procedural protections, and found documentation-related concerns in 31 out of 35.” *Improvements Needed in Bureau of Prisons’ Monitoring and Evaluation of Impact of Segregated Housing*, May 2013, available at <http://www.gao.gov/products/GAO-13-429>. This report is also notable in its critique that “without an assessment of the impact of segregation on institutional safety or study of the long-term impact of segregated housing on inmates, BOP cannot determine the extent to which segregated housing achieves its stated purpose to protect inmates, staff and the general public.”

privileges are allowed.<sup>35</sup> JHA believes IDOC misses the point that the privileges are first taken away, as with segregation placement. IDOC also responds that there is adequate review because AD placement is reviewed every 90 days by a committee, whose recommendation is sent to the warden for final status change or no-change. However, the question at issue is whether the inmate has had notice or right to appeal the continued restrictive placement.

Programs without clear application produce considerable anxiety for inmates. JHA detailed this concern as well as condition complaints from AD inmates with Menard administrators in our prior report.<sup>36</sup> On January 15, 2014, some Menard inmates publically declared a hunger strike through their attorney.<sup>37</sup> IDOC reported that only four of the original 14 inmates who declared a hunger strike were AD placements and reported that there were eight strikers as of 2/7, four as of 2/10, one as of 2/12, and zero as of 2/16. IDOC also responded that they deny the claimed hunger strike ever occurred because they state no symptoms of malnutrition or dehydration have been presented by any of the “strikers.” IDOC stated that they have evidence the inmates received commissary food from others and, thus, lost weight consistent with significantly reduced calorie intake but inconsistent with “no food or water” for extended periods of time.

While JHA believes since last year’s visit that administrators are perhaps doing a better job at Menard with AD inmates’ grievances and outside contacts,<sup>38</sup> the AD program itself remains without clarification. Where inmates perceive a program as unfairly applied, it will be difficult to garner respect for rules and future compliance.

Over the past year, we have communicated with AD inmates who expressed complaints about living conditions (as is common from various housing units at Menard, see discussions of tensions and physical plant issues herein and in prior reports) and repeatedly claim ignorance about why they are in AD or how they can get out. As one remarked, “How can I fight a ghost?” While administrators state that the inmates know why they are in AD, JHA sees no harm in

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<sup>35</sup> JHA notes that segregation privileges are minimally defined by law (administrators may offer more privileges as they can with AD inmates) and are virtually identical to AD Phases 1 and 2 (the exceptions in the information provided by IDOC are for phone calls, with AD receiving one 15-minute call monthly, and inmates in Phase 2 receiving a half-an-hour more visitation time per visit). Inmates with C-Grade restrictions in either AD or segregation will have fewer privileges.

<sup>36</sup> Last year we wrote: “To ease inmates’ anxiety and confusion, JHA recommends that Menard produce and distribute a detailed orientation manual relating to administrative detention so they could get an explanation of why there were there or how they could get out.” Inmates in AD at Pontiac Correctional Center are given manuals that at least inform inmates somewhat of what to expect and say that AD inmates will be evaluated based on behavior.

<sup>37</sup> We again note that while some former Tamms inmates are in AD status, there are inmates who were at Tamms in general population and non-former-Tamms inmates in AD. IDOC does not acknowledge use of the term “High Security Unit.” There is an area on the top floor of North House where some inmates in AD are housed that is separated and has solid cellfronts as opposed to bars. Inmates in Phase 3 may be housed in an area outside this annex that is essentially a part of a segregation gallery. Inmates who declare hunger strike have their cells shaken-down to remove any food items, will receive medical attention at minimum within 72 hours for which they will be assessed the \$5 copay (which JHA continues to recommend be abolished) because this medical attention is considered initiated by the inmate, and inmates will be force feed if medically necessary. Menard administrators informed JHA that any allegations regarding to staff not following proper procedure are investigated. Results of investigations regarding staff misconduct are not shared with inmates. It is generally difficult to obtain information about such investigations or sanctions for misconduct that do not result in criminal prosecutions.

<sup>38</sup> We always worry more about inmates who are incommunicado and we take it as a positive sign that currently AD inmates seem to be freely getting complaints to the outside world.

providing written information. JHA interviewed inmates in AD who we were later informed were in Phase 3; yet these inmates stated they had no idea which phase they were in or why they were still in the program after more than nine months, in one case after 14 months. While Menard has given inmates “phase sheets” showing that an inmate can gain privileges if he moves from one phase to the next, this is insufficient.

JHA has also observed from inmate communications, and later confirmed with administrators, that AD rules and privileges are inconsistently applied across IDOC facilities. This suggests to us that the agency intent and rules for this program are not clear, and we cannot trust that it is implemented even-handedly. The Illinois Auditor General found that updating agency Administrative Directives was a “recurring weakness” in the most recently available report on IDOC.<sup>39</sup> Additionally, some Menard staff interviewed expressed the belief that this program is at times used in cases where it is probably unnecessary. While the CAO is always given substantial discretion to uphold the safety of the institution, it is doubtful that it was the legislature’s or agency’s intent for there to be opaque, unreviewable, indefinite restrictive placements within our prisons. In response to JHA’s continued inquiries, we were informed that the agency is reviewing AD policy.

We have received the same response to our similar concerns about the clarity of policy and procedure for a program distinct from AD designating inmates as weapons violators/staff assaulters, a designation that includes 166 inmates at Menard. In the weapons violators/staff assaulters program inmates wear distinguishing stripes, have privileges restricted, and at Menard are typically housed together in West House in the area for high aggression inmates. While there may be some facility management reason for these policies, staff interviewed opined that designating particular inmates as dangerous in this way does not necessarily help them, as they must remain mindful that any inmate could be dangerous. A difference for this program from placement in AD appears to be that these inmates have at some point been ticketed, which is internally reviewable. Inmates with this label express continued anxiety that they will be targeted. We will continue to monitor these issues.

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<sup>39</sup> See Illinois Auditor General IDOC Financial Audit and Compliance Exam for the Period Ending June 30, 2012, p. 94, available at <http://www.auditor.illinois.gov/Audit-Reports/Compliance-Agency-List/Corrections/FY12-Corrections-Fin-Comp-Full.pdf>.

*This report was written by Gwyneth Troyer, Director of JHA's Prison Monitor Project, and John Maki, JHA Executive Director. Gwyn can be reached at (312) 503-6304 or [gtroyer@thejha.org](mailto:gtroyer@thejha.org).*

Inmates may send privileged mail to JHA, 375 E. Chicago Ave., Suite 529, Chicago, IL 60611.

Contributors to this report include JHA staff members Maya Szilak, Jennifer Vollen Katz, and Phillip Whittington.

Since 1901, JHA has provided public oversight of Illinois' juvenile and adult correctional facilities. Every year, JHA staff and trained volunteers inspect prisons, jails and detention centers throughout the state. Based on these inspections, JHA regularly issues reports that are instrumental in improving prison conditions.



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