



BOARD OF CORRECTION
CITY OF NEW YORK

Summer 2020 Heat Report

June 28, 2021

Executive Summary¹

As it has for decades, the Board of Correction (the Board, or BOC) closely monitored the heat conditions in the city's jails during the summer of 2020 focusing particularly on those who are heat-sensitive and those held in restrictive housing. This report summarizes the Board's findings from June 1, 2020 through September 30, 2020 and is a continuation of the initial mid-summer report² published on August 21, 2020, which looked at the Department's heat mitigation efforts in June of that year.

During Summer 2020, the Board's oversight efforts included analyzing relevant DOC policy updates, housing and demographics of heat-sensitive people in custody, housing area density of air-conditioned units, daily temperature monitoring, people in custody's access to fans and cool showers, grievances related to heat concerns, and on-site inspections by Board staff. Board staff also reviewed documentation for all DOC requests to place heat-sensitive people in non-air-conditioned housing (overrides) and documentation for all heat-sensitive individuals who have refused placement in air-conditioned housing (refusals).

From Summer 2019 to Summer 2020, there were significant changes in the total population and the population held in air-conditioned housing.

- The total population in DOC custody decreased by 46%, from 7,342 people in July 2019 to 3,975 people in July 2020.³
- The total population held in non-air-conditioned housing decreased by 65%, from 3,947 people in non-air-conditioned housing in July 2019 to 1,366 people in July 2020.
- The total number of heat-sensitive people in DOC custody decreased by 45% from 1,929 in July 2019⁴ to 1,057 people in July 2020.
- The total number of heat-sensitive individuals housed in non-air-conditioned units decreased by 74%, from 804 people in July 2019 to 210 people in July 2020.

This dramatic decrease in the total population in custody was an important factor in allowing DOC to house more individuals, particularly those with a heat-sensitive designation, in air-conditioned housing. Compared to July 2019, in July 2020, there were an additional 10 beds in air-conditioned housing units.⁵ The Department's 2020 Heat Plan noted that they added air conditioning to four housing areas at Anna M. Kross Center (AMKC) and were working to add air conditioning to two housing areas at Robert N. Davoren Center (RNDC). The Board found from June 30 to September 30, 2020, AMKC added 21 air-conditioned houses and RNDC removed four air-conditioned houses. The Department also reported that construction at George R. Vierno Center (GRVC) would allow for over thirty additional beds in air-conditioned housing, however, the Board found from June 30 to September 30, GRVC removed four air-conditioned houses.

¹ Special thanks to all Board staff who assisted in this Report, including Christin Johnson, Dilcio Acosta, Navi Bains, Katrina Blackman, Heather Burgess, Verna Ezeji, Ana Gonzalez, Jemarley McFarlane, Nashla Rivas-Salas, and Bennett Stein.

² N.Y.C. BD. OF CORR., N.Y.C. JAIL HEAT CONDITIONS AND OPERATIONS - MID-SUMMER 2020 REPORT, <https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/Mid-Summer-Heat-Report-2020-08-21.pdf>

³ The decrease in jail population is due to several factors, including New York State's bail reform and public health-informed releases due to COVID-19.

⁴ N.Y.C. BD. OF CORR., N.Y.C. JAIL CONDITIONS AND OPERATIONS DURING JULY 2019 HEAT EMERGENCY FINAL REPORT AND RECOMMENDATIONS, at 4, <https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/BOC-Heat-Report-and-Recommendations-2019-09-09.pdf#page=4>

⁵ On July 26, 2019, there were 4,655 beds in open air-conditioned housing areas, on July 30, 2020, there were 4,665.

Summer 2021

Since September 2020, the number of air-conditioned housing units has decreased by 6%, despite this the department has added 11 additional air-conditioned housing units across four facilities: five at AMKC, two at RMSC, two at GRVC, and 2 at WF.⁶ The Department also reported as of June 1, 2021, 72.5% of heat sensitive people were housed in heat sensitive housing and the remaining 27.5% had a refusal, a security override, or were in new admission housing and would be housed appropriately shortly.⁷ The Board looks forward to continuing to monitor the department's heat mitigation efforts this summer and will provide a summary of summer 2021 findings.

Summary of Key Findings

Population

- The total number of heat-sensitive people in DOC custody decreased by 45% from 1,929 in July 2019⁸ to 1,057 in July 2020. However, during summer 2020 the total number of heat-sensitive people increased by 5% from 1,013 in June to 1,061 in September as the overall jail population increased.

Capacity

- In June 2020, 50% of all air-conditioned housing units were above 50% capacity (50% capacity was the Department's goal for housing areas in order to mitigate COVID-19 concerns).⁹ The proportion of air-conditioned housing units above 50% capacity increased in July and August, to 54% and 62% respectively.

Overrides & Refusals

- The Board analyzed all documented heat-sensitive housing override requests (N=89) and refusals (N=363) processed through September 30, 2020: On July 31, 2020, there were 30 heat-sensitive people in custody in non-air-conditioned housing without an override or refusal. This is an 80% decrease from July 2019, when 150 heat-sensitive people were housed in non-air-conditioned housing without an override or refusal.
- The Department's process for approving and denying override requests is inconsistent. Board staff found that some overrides were denied due to limited supporting documentation and others were approved despite having limited supporting documentation. Ten override packets had no documentation attached, while others included documentation that ranged between one to 80 pages of supporting documents.¹⁰
- Updated CHS heat-sensitive housing refusal forms do not include a space for the signature of a heat-sensitive individual refusing heat-sensitive housing.

Daily Temperature Monitoring

- The Board reviewed a sample of 4,414 temperature readings on high-heat days from June to September 2020. The Board found temperatures in air-conditioned units exceeded 80 degrees

⁶ The closure of the Manhattan Detention Center on April 6, 2021 resulted in the loss of 17 air-conditioned units throughout the jail system.

⁷ See NYC Board of Correction meeting June 8, 2021. <https://youtu.be/TOLxCR1JR14>

⁸ N.Y.C. BD. OF CORR., N.Y.C. JAIL CONDITIONS AND OPERATIONS DURING JULY 2019 HEAT EMERGENCY FINAL REPORT AND RECOMMENDATIONS, at 4, <https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/BOC-Heat-Report-and-Recommendations-2019-09-09.pdf#page=4>

⁹ The Department of Correction made it a goal to keep housing areas at or below 50% capacity to mitigate concerns around COVID-19 transmission, affording people the opportunity to more easily practice social distancing precautions. See <https://www1.nyc.gov/site/doc/media/socialdistancing.page> for more information.

¹⁰ N.Y.C. DEP'T OF CORR., HEAT-SENSITIVE HOUSING, OPERATIONS ORDER 9/20 at 11 (eff. June 29, 2020).

Fahrenheit on 76 different occasions. DOC's Central Operations Desk (COD) did not issue a report for these events as required by DOC policy.¹¹

- DOC recorded 89% (n=3,936) of the sampled temperature readings between 1pm and 4pm, as required by policy.

Grievances and Complaints

- From June 4, 2020 through September 30, 2020, DOC's Office of Constituent and Grievance Services (OCGS) received a total of 333 heat-related grievances. BOC reviewed and recoded all DOC heat-related grievances received by OCGS. The following four (4) BOC categories made up 89% (n=296) of all heat-related grievances:
 - 38% (n=126) were grievances about **inoperable air conditioning units or fans** inside the housing area.
 - 22% (n=73) were requests to DOC to be moved to **heat-sensitive housing**.
 - 15% (n=449) were grievances about **intense heat conditions in jail housing units**.
 - 14% (n=48) were grievances about **lack of access to ice or cool showers**.

Recommendations

1. **The City should intensify efforts to decrease the jail population**, as conditions in the jail during Summer 2020 (and extreme temperatures in the jails over summers and winters throughout prior decades¹²) make clear the lack of capacity to ensure humane conditions for all people in custody and all people who work in the jails.
2. **DOC should continue its work to expand air-conditioning installation in all occupied housing areas and move individuals to areas with air conditioning, with the goal of housing all people in custody in air-conditioned housing.** The number of air-conditioned housing units has decreased by 6% (8 housing units) from September 30, 2020 to June 1, 2021.¹³ While DOC is making great strides, it is still not enough to house all people in custody. Borough based jails are still at least six years away and will not help with heat conditions over the upcoming summers. Temperature readings in non-air-conditioned units reached 80 degrees and above 605 times throughout the summer. Temperatures readings in general population non-air-conditioned units ranged from a minimum of 68.2 to a maximum of 98.6 degrees. If installation cost is an issue, the Department should engage with City Hall and City Council to ensure appropriate planning and funding.
3. **Before Memorial Day each year and daily throughout the summer, the Department should immediately move every heat-sensitive person in custody to air-conditioned housing, unless the person voluntarily refuses to move.** When DOC cannot immediately move a heat-sensitive

¹¹ Of the 76 times that temperatures exceeded 80 degrees in air-conditioned units, DOC informed facility leadership and/or Central Operation Division 19 times. The Board was not able to locate a COD for any of these events. DOC's Central Operations Desk, located on Rikers Island, is a centralized unit tasked with receiving reports of "unusual incidents" occurring in all NYC jails, as well as hospital prison wards, courtroom holding areas and transportation buses and vans operated by the Department. The Central Operations Desk generates a 24-Hour Report daily, which is used to track unusual incidents, such as uses of force, serious injuries to inmates or staff, and other events that seriously affect normal operations of DOC facilities.

¹² See Board of Correction discussion of cold and hot jail temperatures in, e.g., [January 1982](#), [October 1988](#), [January 1990](#), [July 1994](#), [June 1999](#), [December 2003](#), [September 2004](#), [September 2005](#), [July 2008](#), [July 2012](#), [July 2013](#), [July 2014](#), [September 2016](#), and [June 2020](#). The Board has received additional comments from people in custody and advocates, see e.g. [April 2007](#), [July 2014](#), [July 2017](#), [November 2017](#), and [June 2020](#).

¹³ DOC's Master Bed Utilization Plan for September 30, 2020 shows 126 air-conditioned housing units and the June 1, 2021 Plan showed 118 air-conditioned housing units.

person due to safety/security concerns — facility leadership should fill out the Override Form and review rehousing options daily. This should be a rare exception. Additionally, at the beginning of the summer and throughout, DOC and CHS should provide heat-sensitive people who had refused air-conditioned housing with an opportunity to be moved to air-conditioned housing.

4. **Per new Board of Correction restrictive housing rules¹⁴, all restrictive housing units must be air-conditioned beginning November 1, 2021.** Until then, DOC should move all heat-sensitive people in ESH to air-conditioned units during high-heat days. There are currently six ESH housing areas without air conditioning. Additionally, if a cell in restrictive housing (e.g. PSEG, ESH) is above 80 Fahrenheit, the Department should immediately cease using this cell until the temperature drops below 80 degrees. Last summer temperatures in ESH units ranged from a minimum of 73.5 to a maximum of 98.5.
5. **In places where the Department finds it cannot air condition a full housing area, DOC should explore adding air-conditioners to dayrooms to serve as “Cooling Centers.”** People can seek refuge from the heat in these “Cooling Centers” for even a few hours per day, as the City’s Department of Health and Mental Hygiene (DOHMH) and the Center for Disease Control (CDC) suggest for the community.
6. **CHS should update the forms used to refuse heat-sensitive housing to provide a space for the person in custody to sign.** While CHS updated the refusal form in Summer 2020 to clarify the clinician signature it is still unclear if the person in custody has the opportunity sign the form. There is no space for person in custody to sign.
7. **The Department should develop an electronic data-tracking system for the systematic collection of the important heat-related information recorded in the Daily Temperature Monitoring Reports. The electronic system would go a long way toward ensuring comprehensive and accurate reporting, thereby equipping DOC and CHS with the information needed to take appropriate action in response to a heat emergency and plan for mitigation efforts for future summers.** Having the temperature reading reports in an electronic format would allow for easier monitoring of heat mitigation efforts by DOC and allow BOC to easily access and analyze the data.
8. **DOC should ensure the process for approving and denying security override requests is consistent.** Board staff found that some overrides were denied due to limited supporting documentation and others were approved despite having limited supporting documentation. The documentation reviewed should be consistent in all cases and provided to the person in custody, per the operations order.

DOC Policy and Practice Updates Since Summer 2019

The total number of heat-sensitive people in DOC custody decreased by 45% from 1,929 in July 2019 to 1,057 in July 2020.

From Summer 2019 to Summer 2020, there were significant changes in the total population and the population held in air-conditioned housing.

- The total population in DOC custody decreased by 46%, from 7,342 people in July 2019 to 3,975 people in July 2020.¹⁵
- The total population held in non-air-conditioned housing decreased by 65%, from 3,947 people in non-air-conditioned housing in July 2019 to 1,366 people in July 2020.

¹⁴ NYC Board of Correction Restrictive Housing Rule 6-17(h)(1), approved June 8, 2021, <https://www1.nyc.gov/assets/boc/downloads/pdf/RULE-AND-SBP-6-4-21-Legal-11833206.pdf#page=91>

¹⁵ The decrease in jail population is due to several factors, including New York State’s bail reform and public health-informed releases due to COVID-19.

- The total number of heat-sensitive people in DOC custody decreased by 45% from 1,929 in July 2019¹⁶ to 1,057 people in July 2020.
- The total number of heat-sensitive individuals housed in non-air-conditioned units decreased by 74%, from 804 people in July 2019 to 210 people in July 2020.

This dramatic decrease in the total population in custody was a critical factor in allowing DOC to house more individuals, particularly those with a heat-sensitive designation, in air-conditioned housing. Compared to July 2019, in July 2020, there were an additional 10 beds in air-conditioned housing units.¹⁷ The Department's 2020 Heat Plan notes that they added air conditioning in four housing areas at AMKC and were working to add air conditioning to two housing areas at RNDC. The Board found from June 30 to September 30, 2020, AMKC added 21 air-conditioned houses and RNDC removed four air-conditioned houses. The Department also reported that construction at GRVC would allow for over 30 additional beds in air-conditioned housing, however, the Board found from June 30 to September 30, GRVC removed four air-conditioned houses.

In Summer 2020, the Department published a [2020 Summer Heat Plan](#) and made significant changes to its policy and practice around high heat conditions in the jails. These changes include distributing a new Operations Order;¹⁸ formalizing the heat-sensitive security override process,¹⁹ implementing regular internal audits of compliance with heat-related policies, distributing a daily email of mis-housed people in custody for further review by facility and central leadership, and implementing additional heat mitigation efforts in non-air-conditioned units such as checking for fans in each housing area. At the same time, due to the ongoing COVID-19 pandemic, the Department attempted to limit housing area capacity to 50% in order to encourage social distancing.

During Summer 2020:

- The total population in DOC custody increased by 11%, from 3,944 in June to 4,376 in September.
- The total population held in non-air-conditioned housing decreased by 7%, from 1,433 people in June 2020 to 1,329 in September 2020.
- The total number of heat-sensitive people in DOC custody increased by 5% from 1,013 people in June 2020 to 1,061 in September 2020.
- The total number of heat-sensitive individuals housed in non-air-conditioned units decreased by 20%, from 219 in June 2020 to 176 in September 2020.

¹⁶ N.Y.C. BD. OF CORR., N.Y.C. JAIL CONDITIONS AND OPERATIONS DURING JULY 2019 HEAT EMERGENCY FINAL REPORT AND RECOMMENDATIONS, at 4, <https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/BOC-Heat-Report-and-Recommendations-2019-09-09.pdf#page=4>

¹⁷ On July 26, 2019, there were 4,655 beds in open air-conditioned housing areas, on July 30, 2020, there were 4,665.

¹⁸ N.Y.C. DEP'T OF CORR., HEAT-SENSITIVE HOUSING, OPERATIONS ORDER 9/20 (eff. June 29, 2020).

¹⁹ *Id.* at 11 (eff. June 29, 2020).

Table 1. DOC Population by Air-Conditioned vs. Non-Air-Conditioned Units, 2020

Housing Type	June 30 th		July 31 st		August 31 st		September 30 th	
	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage
Air-Conditioned	2,507	64%	2,606	66%	2,932	70%	3,040	70%
Non-Air-Conditioned	1,433	36%	1,366	34%	1,251	30%	1,329	30%
Total	3,940*	100%	3,972**	100%	4,183***	100%	4,369****	100%

Source: BOC Analysis of DOC Inmates in Custody Data Files matched with the DOC's Master Bed Utilization Plan in effect on the above dates.

Note: *June- Four individuals did not have housing area information available. **July- Three individuals did not have information available. ***August – Four individuals did not have housing area information available. ****Seven individuals had no housing area information available.

Table 2. DOC Population by Heat Designation

Heat Designation	June 30 th		July 31 st		August 31 st		September 30 th	
	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage
Heat-Sensitive	1,013	26%	1,057	27%	1,102	26%	1,061	24%
Non-Heat-Sensitive	2,928	74%	2,891	73%	3,074	74%	3,299	76%
Total	3,944*	100%	3,948**	100%	4,176***	100%	4,360****	100%

Source: BOC Analysis of DOC Inmates in Custody Data Files matched with the DOC's Master Bed Utilization Plan in effect on the above dates. Note: * three individuals did not have housing area information in June. ** 27 individuals did not have housing area information in July. *** 11 individuals did not have housing area information in August. **** 16 individuals did not have housing area information in September

Table 3. Heat-Sensitive Individuals by Housing Type

Housing Type	June 30 th		July 31 st		August 31 st		September 30 th	
	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage
Air-Conditioned	794	78%	847	80%	927	84%	885	83%
Non-Air-Conditioned	219	22%	210	20%	175	16%	176	17%
Total	1,013	100%	1,057	100%	1,102	100%	1,061	100%

Source: BOC Analysis of DOC Inmates in Custody Data Files matched with the DOC's Master Bed Utilization Plan on the above dates.

Housing Area Density

In June 2020, half of all air-conditioned units were above 50% capacity. The Department established a goal of 50% capacity in housing areas to mitigate COVID-19 concerns.²⁰ The proportion of air-conditioned units above 50% capacity continued to increase in July and August, at 54% and 62% respectively.

Over Summer 2020, managing COVID-19 prevention in the jails presented an additional challenge for the Department. The Department set a goal of limiting housing area capacity to 50% in order to encourage social distancing.²¹ Board staff found that this was a challenge for the Department. Between June 30th and September 30, 2020, there were 167 occupied air-conditioned housing areas. The minimum capacity in these housing units was 2%, the maximum was 100%, the mean was 56%, and median was 58%. Board staff found the proportion of air-conditioned housing units at or above 50% capacity increased by 28% from June 30 to September 30. In June, half of all air-conditioned units were above 50% capacity, the

²⁰ The Department of Correction made it a goal to keep housing areas at or below 50% capacity, affording people the opportunity to more easily practice social distancing precautions. See <https://www1.nyc.gov/site/doc/media/socialdistancing.page> for more information.

²¹ Id.

proportion of air-conditioned units above 50% capacity continued to increase in July and August, at 54% and 62% respectively. The average capacity in air-conditioned units was over 50% in six (6) facilities (see table 4).

Table 4. Air-Conditioned Units June 30th to September 30th

Facility	Unique Housing Areas	Minimum Capacity	Maximum Capacity	Mean Capacity	Median Capacity
AMKC	34	13%	100%	64%	62%
GRVC	16	7%	100%	65%	68%
MDC	25	3%	100%	54%	54%
NIC	23	3%	100%	49%	52%
RMSC	20	2%	69%	24%	25%
RNDC	26	4%	100%	57%	53%
VCBC	16	10%	98%	67%	70%
WF	7	7%	100%	58%	64%
Grand Total	167	2%	100%	56%	58%

Source: BOC analysis of DOC 5am census reports.
 Note: BOC calculates capacity using the census and "beds at standard" values reported in DOC's 5am census. DOC reports that the "beds at standard" in the 5 am census reflect each units' operational capacity after accounting for legal (e.g., Nunez Consent Decree housing limits, etc.), programmatic (e.g., PACE, CAPS, MO, etc.), and maintenance (e.g., inoperable or down cells, etc.) factors which are unrelated to the size of each unit and may change over time.

Heat-Sensitive People in Custody

CHS defines patients as heat-sensitive if they have one or more of the following risk factors: 1) sickle cell disease; 2) age greater than or equal to 65 years old; 3) Parkinson's disease; 4) documented history of hospitalization for heatstroke; 5) requires infirmary care; 6) type I diabetes; 7) type II diabetes Hgb A1C > 7.5, BMI >35, severe asthma, COPD, history of congestive heart failure or myocardial infarction, dementia, moderate to profound intellectual disability, appears confused, or another clinical criteria that in the clinician's judgement raises the risk of heat-related illnesses.²² Black and Latinx New Yorkers and those age 65 and over may have increased vulnerability to heat-associated morbidity and mortality, due to social and health factors.²³

Of the 1,057 heat-sensitive people in custody on July 31, 2020:

- 56% (n=597) were Black non-Hispanic and 33% (n=336) were Hispanic. Black non-Hispanic people were 56% (n=2,210) of the total jail population and Hispanic people were 25% (n=1,011) of the total jail population.
- 68% (n=724) had three or more contacts with mental health services during their incarceration (i.e. a Brad H designation)
- 24% (n=256) were over the age of 50. Heat-sensitive people over the age of 50 were 48% of the 536-overall people in custody who were over the age of 50.
- 4% (n=42) were between the ages of 18-21.

²² N.Y.C. CORRECTIONAL HEALTH SERVICES #INT 9 HEAT PROTOCOL, at 1 (eff. September 9, 2019).

²³ See Gronlund, C.J. Racial and Socioeconomic Disparities in Heat-Related Health Effects and Their Mechanisms: A Review. *Curr Epidemiol Rep* 1, 165–173 (2014). <https://doi.org/10.1007/s40471-014-0014-4> and the CDC's webpage on "Natural Disasters and Several Weather – Extreme Heat" here: <https://www.cdc.gov/disasters/extremeheat/index.html>

The proportion of people in custody designated as heat-sensitive remained constant from summer 2019 to summer 2020, at 26% of the population;²⁴ however, there was a 45% decrease in the total number of heat-sensitive people in custody from summer 2019 to summer 2020 (872 fewer heat-sensitive people in custody). This is consistent with a 46% decrease in total population during the same timeframe.

Housing of Heat-Sensitive People in Custody

In July 2020, 210 heat-sensitive people in custody (20% of all heat-sensitive people) were not in air-conditioned housing. This was a 74% decrease from July 2019 (a decrease of 594 people), when 804 heat-sensitive people (42% of all heat-sensitive people) were housed in non-air-conditioned units.

Of the 210 heat-sensitive people not housed in air-conditioned housing units on July 31, 2020, 26 had a security override and 162 had a refusal.²⁵ Thirty (n=30) heat-sensitive people who were not in air-conditioned housing did not have an override request or refusal paperwork on July 31, 2020; 16 of these people were housed in cell units and 14 people were in dorm units.²⁶

Table 5.

Heat-Sensitive Individuals in DOC Custody								
Facility	June 30 th		July 31 st		August 31 st		September 30 th	
	A/C	Non- A/C	A/C	Non- A/C	A/C	Non- A/C	A/C	Non- A/C
AMKC	241	62	234	55	269	47	289	44
GRVC	117	43	127	50	113	53	100	56
MDC	98	0	95	0	122	0	81	0
NIC	98	0	104	0	112	0	110	0
OBCC	5	63	1	53	0	39	1	39
RMSC	62	10	60	19	65	9	53	8
RNDC	50	41	69	33	79	27	94	29
VCBC	96	0	118	0	138	0	131	0
WF	11	0	21	0	9	0	5	0
BHPW	16	0	18	0	20	0	21	0
Total	794	219	847	210	927	175	885	176

Source: BOC Analysis of DOC Inmates in Custody Data Files matched with the DOC's Master Bed Utilization Plan on the above dates.

Heat-Sensitive Overrides & Refusals of Heat-Sensitive Housing

The Department's process for approving and denying override requests is inconsistent. Board staff found that some overrides were denied due to limited supporting documentation and others were approved despite having limited supporting documentation. Ten override packets had no

²⁴ The proportion of people in custody designated as heat-sensitive was 26% in June, 26% in July, 26% in August, and 24% in September.

²⁵ Seven individuals had documentation for both an override and a refusal.

²⁶ In June 2020, 22 heat-sensitive people who were not in air-conditioned housing did not have an override request or refusal paperwork.

documentation attached, while others included documentation that ranged between one to 80 pages of supporting documents.²⁷

Updated CHS heat-sensitive housing refusal forms do not include a space for the signature of heat-sensitive individual refusing heat-sensitive housing.

According to DOC, some heat-sensitive people cannot be moved to air-conditioned housing for security reasons (a “heat-sensitive override”), while others voluntarily refuse to move (a “refusal”). Refusals must be made to a Correctional Health clinician.²⁸ In summer 2020, the Department standardized the heat-sensitive override process and created flags in their internal tracking system (Inmate Information System or IIS) that show whether someone has an associated override or refusal. The Department also began providing the Board with all Heat-Sensitive Housing Override Requests and Refusal forms, including any supporting documentation associated with override requests.

The Board analyzed all documented override requests (N=89) and refusals (N=363) processed through September 30, 2020.

► Heat-Sensitive Security Override Analysis

If Department staff want to place a heat-sensitive individual in a housing unit without air conditioning, a Tour Commander or Deputy Warden must send a heat-sensitive security override request to the Department’s Health Affairs Unit (HAU). Staff submitting the request are required to provide the reason for the request.²⁹ The HAU must then review the request and supporting documentation and decide whether to approve the override.

The Department had a total of 89 heat-sensitive override requests on file for people in custody through September 30, 2020.³⁰ HAU approved 91% (n=81) of requests: 33% (n=29) were approved in June, 24% (n=21) were approved in July, 11% (n=10) were approved in August, 9% (n=8) were approved in September. Additionally, 7% (n=6) were approved in May, 2% (n=2) were approved in February, and 6% (n=5) were approved in 2019. The remaining 8 (9%) overrides were denied: one (1%) in June, one (1%) in July, three (3%) in August, and three (3%) in September.

DOC’s summer 2020 policy update requires that a Tour Commander or Deputy Warden submit the form.³¹ Fifty-two (n=52, 58%) override requests were completed by Deputy Wardens while 37 (42%) were completed by DOC Captains. Of the 46 overrides that were requested after the policy requirement was put in place, 35% (n=16) of the requests were filed by Captains; additionally, 28% (n=13) of the requests were approved.

²⁷ N.Y.C. DEP’T OF CORR., HEAT-SENSITIVE HOUSING, OPERATIONS ORDER 9/20, at 11 (eff. June 29, 2020).

²⁸ “The subject individual must be seen immediately by Medical staff and counseled regarding their voluntary refusal. Medical Staff will complete a CHS-305 Patient Refusal of Treatment form electronically and print out a hardcopy, which the subject individual must sign and date.” N.Y.C. DEP’T OF CORR., HEAT-SENSITIVE HOUSING, OPERATIONS ORDER 9/20, at 11 (eff. June 29, 2020).

²⁹ Prior to the new DOC operations order effective June 29, 2020, the staff member requesting the override was also required to list steps taken to avoid an override.

³⁰ The Department’s new Operations Order, implemented on June 29, 2020, includes a new heat-sensitive security override request form which is more detailed and more clearly structured to capture the required information. 41 override requests reviewed by the Board were completed on the old form as they were processed by DOC prior to the new order taking effect

³¹ The updated form per the new Operations Order requires a Deputy Warden or Tour Commander to submit the request. N.Y.C. DEP’T OF CORR., HEAT-SENSITIVE HOUSING, OPERATIONS ORDER 9/20, at 12. (eff. June 29, 2020).

Most overrides were requested by OBCC (52%, n=46), the jail where Enhanced Supervision Housing (ESH, a form of restrictive housing) was located.

Table 6.

All Override Requests by Facility					
Facility	Through Jun*	Jul	Aug	Sept	Total
OBCC	23	12	7	4	46
RNDC	11	4	1	0	16
GRVC	4	3	3	3	13
AMKC	3	2	2	1	8
RMSC	2	1	0	2	5
MDC	0	0	0	1	1
Total	43	22	13	11	89
Source: BOC analysis of DOC heat-sensitivity security override documentation in through September 30, 2020.					
Note: *The June column includes 2 overrides from February, 6 overrides from May, and 5 overrides from 2019.					

More than half (54%, n=44) of the approved overrides were requested because the person was housed in Enhanced Supervision Housing (ESH), a form of restrictive housing where people are afforded seven (7) hours of daily lock-out and can earn additional lock-out time upon their progression to less restrictive housing levels within ESH.³² All ESH housing areas were non-air-conditioned in Summer 2020. Of the 44 people with overrides due to ESH, 31 people (77%) were heat-sensitive when placed in ESH and then an override was processed after placement. The other 13 people (30%) were designated heat-sensitive after placement in ESH and an override was processed at that point.

Two approved override requests submitted by a Captain from RMSC had no supporting documentation. It appears the requests were submitted because the two women identified as transgender, and the Department sought to put them in the transgender new admission housing area which is not air-conditioned. The Board found that the Department only had one air-conditioned new admission housing unit, located at MDC (now closed).

³² On a July 27, 2020 Board tour of OBCC, the Department reported that they had removed all heat-sensitive people in custody from ESH.

Table 7.

DOC Approved Heat-Sensitive Security Overrides					
Reasons for Security Override Request	Through Jun	Jul	Aug	Sept	Total
Currently Housed in ESH	22	12	6	4	44
Needs More Secure Setting / Persistent Violent Behavior	11	5	0	0	16
Unclear/Other	3	0	0	2	5
Designated as / Currently in Protective Custody	2	1	1	0	4
COVID*	2	1	0	0	3
Currently Housed in GRVC	1	1	1	0	3
Currently Housed in CMC Housing	0	1	1	0	2
Currently in Mental Observation Housing	1	0	1	0	2
Transgender (female)	0	0	0	2	2
Total	42	21	10	8	81
Source: BOC analysis of DOC approved heat-sensitive security override documentation in June-September 2020.					
Note: *These override requests were from RMSC which all stated, “as per medical staff all new admissions are to be housed in (cell housing) instead of (dormitory) due to Covid 19.”					

The Department’s Operations Order issued June 29, 2020 provides additional guidance to staff requesting overrides by stating the submission must include the specific instances where the individual engaged in verified acts of violence. The Department’s approval process and supporting documentation for the overrides were inconsistent prior to and after the Operations Order went into effect.³³ Board staff found that some overrides were denied due to limited supporting documentation and others were approved despite having limited supporting documentation.

An example of a well-documented override was an override dated February 20, 2020 which included, as supporting evidence: the Inmate Information System (IIS) screen for transfer history to show the Department tried to mitigate the need for an override; the IIS infractions screen to give a clear indication of persistent violent behavior; and the infraction packets.

Of the eight denied override requests, four requests were denied due to limited supporting documentation, three were denied due to staff only listing security reasons which were deemed insufficient, and one denial for a person who was not heat-sensitive. Four of the denials came from AMKC, three of the denials came from GRVC, and one came from OBCC.

Although the override denials appeared to be reasonable, it is not clear why these override requests were denied for limited documentation, while others were approved despite having similar documentation problems.

► Heat-Sensitive Housing Refusal Analysis

If a heat-sensitive person refuses to move to an air-conditioned housing area, CHS policy requires that the person undergo consultation with a physician, who explains the potential health risks of refusing heat-

³³ The Board requested the Department send the packet of information associated with each override. The Department reports that the Health Affairs Unit has access to and/or may have requested additional information from the facility to review in their determination.

sensitive housing.³⁴ If the person still declines a transfer, CHS notifies DOC of the patient's refusal. DOC's new Operations Order requires the person in custody sign and date the refusal form. DOC policy in effect prior to the order issued on June 29, 2020, was silent on whether the person in custody, the clinician, and/or DOC staff receiving the refusal should sign the form. The CHS protocol is also silent on who should sign the refusal form. In August 2020, CHS updated its refusal form to clarify the provider must sign the form. There is no place on the updated form for the person in custody to sign the form, despite the Department's Operations Order requiring the person in custody to sign a refusal form.

There were 363 refusal forms processed through September 30, 2020. Thirty-nine percent (39%, n=141) of refusals were filed in June 2020, 17% (n=63) were filed in July, 12% (n=45) were filed in August, and 15% (n=55) were filed in September. Eight percent (8%, n=31) of refusals were filed between January and May 2020, the remaining 8% (n=28) were filed in 2018 or 2019.

Twenty-five percent (25%, n=90) were signed by both the clinician and person in custody³⁵, 6% (n=23) were signed by the person in custody but not a clinician, 46% (n=166) were signed by the clinician but not the person in custody, 1% (n=4) were signed by neither a person in custody nor a clinician. The final 22% (n=80) have one signature, but it was not clear if the signature is that of the clinician or the person in custody. 298 refusals (82%) were on the standard CHS refusal of heat-sensitive housing print out, referenced in DOC's new Operations Order. Of the 298 refusals on the standard form, 34 (11%) were signed by both the person in custody and a clinician. CHS used two other forms during this time period, both of which more often had signatures from both the person in custody and clinician.³⁶

Daily Temperature Monitoring

The Board reviewed a sample of 4,414 temperature readings on high-heat days from June to September 2020. The Board found temperatures in air-conditioned units exceeded 80 degrees Fahrenheit on 76 different occasions. DOC's Central Operations Desk (COD) did not issue a report for these events as required by DOC policy

DOC recorded 89% (n=3,936) of the sampled temperature readings between 1pm – 4pm, as required by policy.

DOC's 2020 policy required that each jail take daily temperature readings in all medical and mental health areas, all occupied air-conditioned housing (except Manhattan Detention Center, Vernon C. Bain Center, and the 800-bed addition at the Rose M. Singer Center where temperatures must be taken in 20% of housing areas), Rose M. Singer Nursery (when occupied), and all punitive segregation, restricted housing unit, Enhanced Supervision, Transitional Restorative Unit (TRU), and Second Chance housing areas. Each facility is required to document daily temperature readings in several locations in each sample area (e.g., the front, middle, and back of a dormitory housing area) and document the housing area type (e.g., General Population, Mental Observation, etc.), whether the area has air conditioning, and the

³⁴ N.Y.C. CORRECTIONAL HEALTH SERVICES #INT 9 HEAT PROTOCOL, at 2 (eff. September 9, 2019).

³⁵ CHS reports that the person's electronic health record should have an additional refusal of treatment form that includes both the person in custody and the clinician's signatures. Neither the Board nor the Department have access to this record.

³⁶ The other 65 refusals (18%) were on CHS refusal of treatment or refusal of heat-sensitive housing forms. Fifty-six (n=56, 86%) of these had both clinician and person in custody signatures. DOC staff signed 286 (79%) of all refusal forms. Of these, 222 (61%) had a date next to the signature.

number of heat-sensitive people housed in the sample area.³⁷ Each jail must collect this information daily between 1pm and 4pm regardless of the outdoor temperature and report this information in a Daily Temperature Monitoring Report.

The Board reviewed all reports from the high heat days (where ambient outdoor temperature at LaGuardia Airport was documented above 80 degrees Fahrenheit) in June (16 days), July (30 days), August (19 days) and September 2020 (12 days).³⁸ On each high heat day, the Board reviewed temperatures taken in all non-air-conditioned housing units, all restrictive housing units, and two air-conditioned units from each jail and recorded the highest documented temperatures along with the times the temperatures were taken. BOC staff reviewed 4,414 temperature readings from June 1 to September 30, 2020.

If the temperature inside an air-conditioned unit exceeds 80 degrees Fahrenheit, the facility is required to call the Department's Central Operations Desk (COD).³⁹ Of the temperature readings the Board reviewed, temperatures in air-conditioned units exceeded 80 degrees 76 times across different facilities and housing units, however none appeared to have been recorded as incidents by COD.⁴⁰

DOC recorded 89% (n=3,936) of the sampled temperature readings between 1pm-4pm, as required by the Operations Order.

³⁷ N.Y.C. DEP'T OF CORR., TELETYPE HQ-01293-0, at 1 (eff. June 3, 2020).

³⁸ Board staff reviewed the following days: June 4, 6, 9, 10, 12, 19, 20-29; July 1-9, 11-31; August 1,2,3,5, 8-12, 14, 15, 18, 21-25,27, 28; and September 1-10, 23, 25. See National Oceanic and Atmospheric Administration temperature data for June, July, August and September. <https://www.ncdc.noaa.gov/cdo-web/datasets/GHCND/stations/GHCND:USW00014732/detail>

³⁹ N.Y.C. DEP'T OF CORR., TELETYPE HQ-01293-0, at 2 (eff. June 3, 2020).

⁴⁰ While BOC was unable to find a COD to match these incidents, Board staff found 19 instances where DOC staff alerted facility leadership or COD of high temperatures either in the Memo attached to the Daily Temperature Monitoring Reports or with a copy of the email sent to the Central Operations Desk. DOC's Central Operations Desk, located on Rikers Island, is a centralized unit tasked with receiving reports of "unusual incidents" occurring in all NYC jails, as well as hospital prison wards, courtroom holding areas and transportation buses and vans operated by the Department. The Central Operations Desk generates a 24-Hour Report daily, which is used to track unusual incidents, such as uses of force, serious injuries to inmates or staff, and other events that seriously affect normal operations of DOC facilities.

Table 8.

Housing Area Temperature Readings Reviewed By BOC							
Facility	A/C Housing Units	Date of Reading	Minimum	Housing Type	Date of Reading	Maximum	Housing Type
AMKC	1007	7/29/2020	68.7	General Population	7/19/2020	84.7	Mental Observation
EMTC	6	6/20/2020	73.6	General Population	6/9/2020	80.6	General Population
GRVC	757	8/21/2020	64.9	Central Punitive Segregation Unit	7/20/2020	94.3	General Population
MDC	331	7/2/2020	69.3	Sentenced	7/26/2020	82.4	General Population
NIC	591	7/4/2020	54.5	Medical	9/23/2020	79.9	General Population
RMSC	173	9/7/2020	64.2	THU	6/20/2020	79.9	RHU
RNDC	150	6/4/2020	64.9	General Population	8/3/2020	88.1	TRU
VCBC	138	7/23/2020	67.5	General Population	8/11/2020	78.9	General Population
WF	304	7/3/2020	54.5	Intake	7/4/2020	92.2	Infirmary
Total	3457	7/3/2020	54.5		7/20/2020	94.3	

Source: BOC Analysis of DOC Daily Monitoring housing area temperature reading reports for summer 2020 (June to September).
 Notes: BOC reviewed temperature readings on all high heat days where the outside temperature was 80 or higher in June (16 days), July (30 days), August (19 days) and September (12 days). OBCC does not have any air-conditioned units.

Table 9.

Housing Area Temperature Readings Reviewed By BOC							
Facility	Non- A/C Housing Units	Date of Reading	Minimum	Housing Type	Date of Reading	Maximum	Housing Type
AMKC	39	6/21/2020	70.5	Detox	6/29/2000	81.8	General Population
EMTC	34	6/20/2020	74.4	Protective Custody	6/10/2020	80.8	General Population
GRVC	187	9/6/2020	62.4	RHU	7/23/2020	98.6	General Population
MDC	2	6/4/2020	74.6	Workhouse	6/10/2020	75.6	Protective Custody
NIC	6	6/27/2020	73.7	General Population	6/25/2020	75.9	General Population
OBCC	475	6/19/2020	73.5	General Population	7/6/2020	98.5	ESH
RMSC	58	7/24/2020	69.8	General Population	8/3/2020	84.6	General Population
RNDC	156	8/3/2020	68.9	General Population	7/28/2020	95.3	TRU
Total	957	9/6/2020	62.4		7/23/2020	98.6	

Source: BOC Analysis of DOC Daily Monitoring housing area temperature reading reports for summer 2020 (June to September).

Notes: BOC reviewed temperature readings on all high heat days where the outside temperature was 80 or higher in June (16 days), July (30 days), August (19 days) and September (12 days). VCBC and WF are both air-conditioned facilities.

Board staff's review of DOC daily temperature monitoring reports on high heat days showed that temperatures were not taken in all restrictive housing units as required by DOC policy. Temperature readings in ESH housing units ranged from two units (7% compliance) to eight units (100% compliance). The Department consistently took temperature readings in PSEG, Secure and RHU.⁴¹

DOC Heat-Related Grievances

From June 4, 2020 through September 30, 2020, DOC's Office of Constituent and Grievances (OCGS) received a total of 333 heat-related grievances.⁴²

From June 4, 2020 through September 30, 2020, DOC's Office of Constituent and Grievance Services (OCGS) received a total of 333 heat-related grievances, 250 categorized by OCGS as "Environmental" grievances and 83 categorized as "Housing" grievances. OCGS is the office responsible for handling complaints, concerns and requests for information received from people in custody, family, attorneys, and others.

Heat-related grievances were received from nine (9) jails and one hospital prison ward.⁴³ Fifty-nine percent (59%, n=197) of the heat-related grievances were from three (3) facilities: AMKC (20%, n=68), OBCC (20%, n=66), and RMSC (19%, n=63).

Sixty-nine percent (69%, n=229) were filed by people in custody, 24% (n=80) by attorneys, advocates, staff, family, friends on behalf of individuals in custody, and 7% (n=24) were filed anonymously.

BOC staff reviewed and re-coded all heat-related concerns into more specific categories to better understand concerns, complaints, or requests for information in the grievances.⁴⁴ The following four (4) BOC categories made up 89% (n=296) of all heat-related grievances:

- 38% (n=126) were grievances about **inoperable air conditioning units or fans inside the housing area.**
- 22% (n=73) were requests to DOC to be moved to **heat-sensitive housing.**
- 15% (n=449) were grievances about **intense heat conditions in jail housing units.**
- 14% (n=48) were grievances about **lack of access to ice or cool showers.**

Nearly 50% (47%, N=156) of all heat related grievances were filed during the month of July. The temperature reached 90 or above on 19 days in July.⁴⁵

⁴¹ N.Y.C DEP'T OF CORR., HEAT SENSITIVE HOUSING, OPERATIONS ORDER 9/20, at 4 (eff. June 29, 2020); N.Y.C. DEP'T OF CORR., TELETYPE HQ-01293-0, at 2 (eff. June 3, 2020). See also DOC's 2020 Heat Plan

⁴² Heat-related grievances received by OCGS pulled from Service Desk as of October 13, 2020.

⁴³ Additionally, one grievance did not specify a facility within the Department's jurisdiction.

⁴⁴ BOC's Grievance Team reviewed all 341 heat-related grievances received by OCGS between June and September and recoded them into 18 more specific subcategories to better understand the underlying issue. The Board and OCGS continue to work together to ensure consistency and quality assurance practices.

⁴⁵ National Oceanic and Atmospheric Administration Reports can be found here: <https://www.ncdc.noaa.gov/cdo-web/datasets/GHCND/stations/GHCND:USW00014732/detail>

Table 10.

BOC Complaint Category	Examples of Heat-Related Complaints
Inoperable Air-Conditioner or Fans	June 4, 2020 NIC: A person in custody filed a grievance due to the air conditioner and fans being broken in the unit. Several other incarcerated individuals have filed similar complaints because they are heat-sensitive.
	September 26, 2020 RMSC: A person in custody filed a grievance because the air conditioner is broken, and this is impacting their health. The individual has asthma and other medical conditions aggravated by heat.
Appropriate Air-Conditioned Housing	July 23, 2020 RMSC: Person in custody filed a grievance saying they should be housed in an air-condition unit because they are heat-sensitive, have high blood pressure, anxiety and depression.
	July 24, 2020 RMSC: Person in custody said they are being held in a cell that is over 100 degrees and they suffer from medical conditions that get worse with the heat. They said they are being told they must remain there for 14 days.
Lack of Access to Ice or Cool Showers	July 28, 2020 RMSC: Person in custody says they have not received ice or water even after several request have been made and a Captain has been informed.
Intense Heat Conditions in Jails	July 24, 2020 OBCC: A person in custody says they are in ESH unit where they must remain inside their cell that is often over 95 degrees. They have a hard time sleeping and breathing since they are heat-sensitive.
	August 6, 2020 GRVC: A person in custody grieved that there is no air in the unit, only one dirty fan in use. Temperatures in the unit are over 96 degrees and it is impacting people’s health.

Source: OCGS Service Desk System.

Table 11.

Heat-Related OCGS Grievances					
June to September					
N=333					
OCGS Grievance Category	June	July	August	September	Total
Environmental	48	115	46	41	250
Housing	14	41	20	8	83
Top Five BOC Grievance Category	June	July	August	September	Total
Equipment Deficiency (A/C or Fans or Both)	32	51	29	14	126
Heat-Sensitive Housing	8	40	18	7	73
Housing Area Temperature (Intense Heat)	5	32	5	7	49
Failure to Minimize Heat Risk (Ice/Cool Showers)	9	24	8	7	48
Facility Temperature (Intense Heat)	5	7	1	1	14
All other BOC categories	3	2	5	13	23

Source: BOC analysis of heat-related grievances received by OCGS in the Service Desk System as of October 13, 2020.

Board staff reviewed whether people who had refused heat-sensitive housing or were subject to DOC heat-sensitive overrides had filed grievances. Of the 81 people who had a heat-sensitive override, 21 (26%) had

filed at least one heat related grievance during the summer. One individual at RNDC filed three grievances: one requesting heat-sensitive housing and two about intense heat in a housing area (these were filed by the attorney). Of the 368 people who refused heat-sensitive housing, 36 people (10%) filed at least one heat related grievances during the summer. One individual with a documented refusal filed six grievances: two about intense heat in the facility, two about intense heat in the housing area, one about failure to minimize heat risk, and one requesting heat-sensitive housing.

BOC On-Site Inspections

Board staff conducted unannounced tours during the summer with a focus on heat mitigation efforts: one on July 16, 2020 at the RNDC facility, one on July 30, 2020 at the AMKC facility⁴⁶, and one at GRVC on August 17, 2020.⁴⁷ Board staff visited eight housing areas, interviewed people in custody and staff in each housing area about the temperature conditions, and inspected the units for any heat mitigation efforts. At RNDC, Board staff toured two air-conditioned housing areas and one non-air-conditioned housing area. At AMKC, Board staff toured one air-conditioned housing area and two non-air-conditioned housing areas. At GRVC, Board staff toured one air-conditioned housing area and one non-air-conditioned housing area.

Ice and Water Delivery

Six of the eight housing areas visited had been receiving ice. Two non-air-conditioned units had not received ice (AMKC and GRVC). At all three jails, DOC staff reported that they must bring their own ice and water to a housing area post. One uniformed staff person at RNDC reported difficulties maintaining hydration throughout her daily work shift.

Temperature Readings

BOC staff took temperatures on the July 30 tour of AMKC and found temperature readings to be above 85 degrees in two of the three units visited. Temperatures ranged from a low of 72 in the air-conditioned unit visited to a high of 91 degrees in one of the non-air-conditioned unit visited. Temperature readings at GRVC on August 17, 2020 were above 80 degrees at one of the two units visited. Temperatures ranged from a low of 68 degrees in the air-conditioned unit visited to a high of 81 degrees in the non-air-conditioned unit visited.

Posters

BOC staff observed posters regarding heat conditions and safety in one of the housing areas at AMKC and one of the two housing areas toured at GRVC. No posters were observed in any of the housing areas at RNDC and one of the two housing areas at GRVC.

Fans

At AMKC, the one air-conditioned housing area had three fans; one non-air-conditioned housing had five fans (one inoperable), and the other non-air-conditioned housing area had two fans. At RNDC, all three housing areas had two fans. At GRVC the air-conditioned unit had no fans, and the non-air-conditioned unit had three fans, a fourth fan had been requested for the upper tier.

⁴⁶ Board Member Robert Cohen joined Board staff on July 30, 2020.

⁴⁷ According to the National Oceanic and Atmospheric Administration reports the temperature was 80 degrees on July 16, 2020, 96 degrees on July 30, 2020, and 83 degrees on August 17, 2020.