

Time-In-Cell 2019: A Snapshot of Restrictive Housing Based on a Nationwide Survey of U.S. Prison Systems

Correctional Leaders Association

&

The Arthur Liman Center for
Public Interest Law at Yale Law School

September 2020

CLA (ASCA)-Liman Research Projects

2012

Prison Visitation Policies: A Fifty-State Survey

2013

Administrative Segregation, Degrees of Isolation, and Incarceration:
A National Overview of State and Federal Correctional Policies

2014

Time-In-Cell: The ASCA-Liman 2014 National Survey of
Administrative Segregation in Prison

2016

Aiming to Reduce Time-in-Cell: Reports from Correctional Systems on the
Numbers of Prisoners in Restricted Housing and on the Potential of
Policy Changes to Bring about Reforms

Rethinking "Death Row": Variations in the Housing of Individuals
Sentenced to Death

2018

Reforming Restrictive Housing: The 2018 ASCA-Liman Nationwide
Survey of Time-in-Cell

Working to Limit Restrictive Housing: Efforts in Four Jurisdictions to
Make Changes

2020

Time-In-Cell: A 2019 Snapshot of Restrictive Housing Based on
Nationwide Surveys of U.S. Correctional Facilities

The Goals

Continue building a longitudinal database of policies and practices to understand the use of restrictive housing in the United States

- Tracking numbers of people held in restrictive housing
- The duration of confinement
- Their demographics

Tracking policy changes

- By corrections departments
- Through legislation and litigation

Methodology

Definition of restrictive housing: “separating prisoners from the general population and holding them in cells for **an average of 22 or more hours** per day, for **15 or more continuous days**”

81 questions on total custodial and restrictive housing populations (as of summer 2019) sent to 50 states and Federal Bureau of Prisons

Follow-ups: December 2019 - March 2020

Draft report: July 2020

Final report: September 2020

Jurisdictions Reporting Data

41 jurisdictions responded; the “*n*” varies by question.

39 jurisdictions reported housing under their “direct control” about **825,000** prisoners – or **58%** of the U.S. prison population (1.4 million).

Number and Percentage of Prison Population in Restrictive Housing 2019

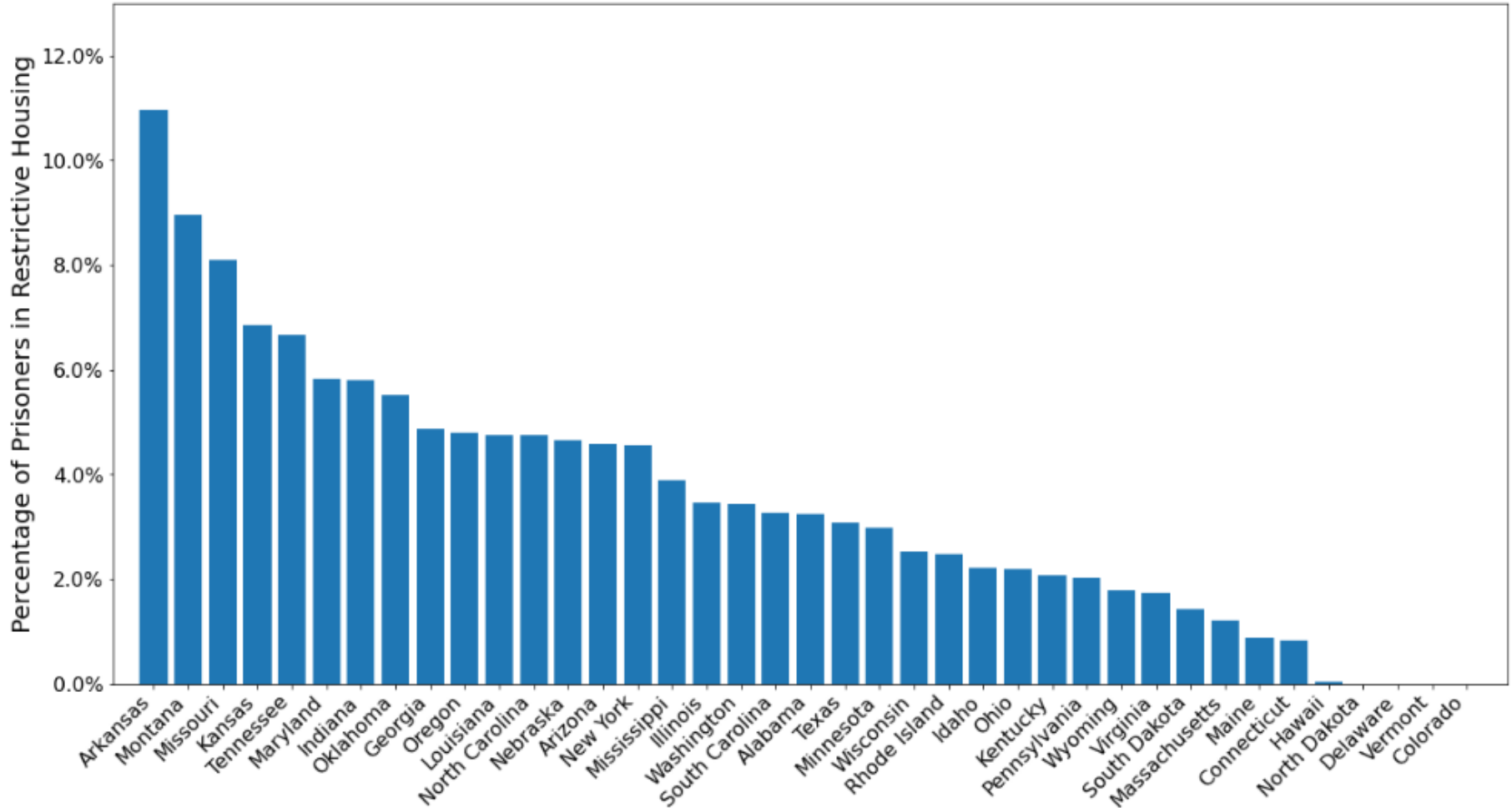
n = 39

Total Within Jurisdiction's Custody	825,473
Total Restrictive Housing	31,542 (3.8%)

Under assumptions responsive to limited data, the estimate is that between **55,000** and **62,500** prisoners were in restrictive housing across the U.S. in the fall of 2019.

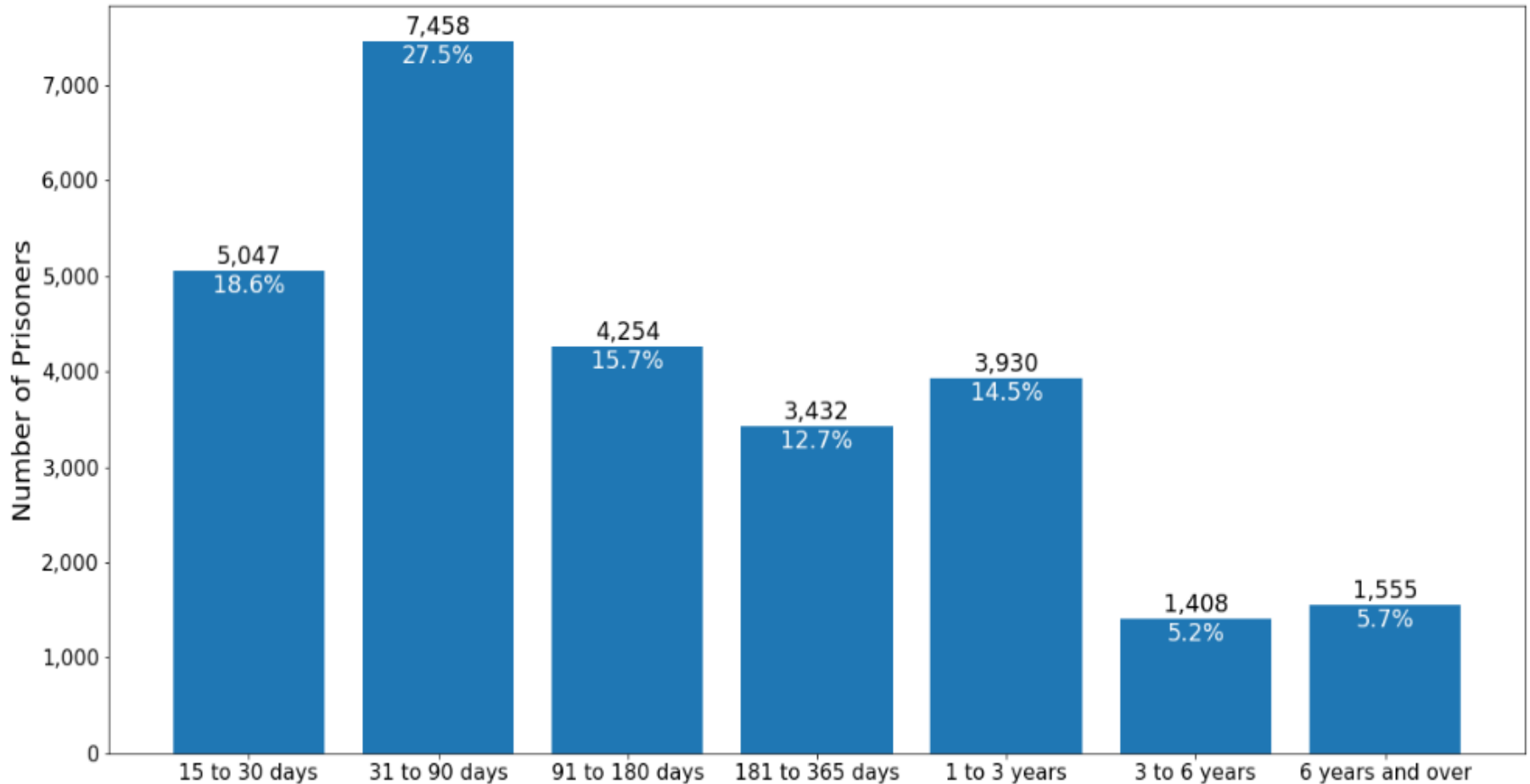
Percentage of Prisoners in Restrictive Housing by Jurisdiction, 2019

(n= 39)



Prisoners in Restrictive Housing by Length of Time, 2019

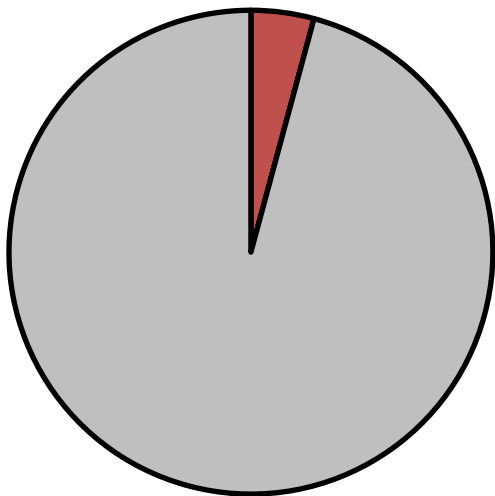
n = 33



Restrictive Housing by Sex

Male prisoners ($n = 38$)

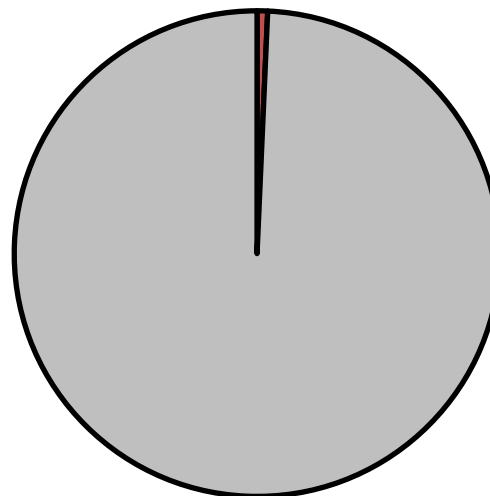
4.2% (30,473) in restrictive housing



Median = 3.4%

Female prisoners ($n = 36$)

0.8% (542) in restrictive housing



Median = 1.4%

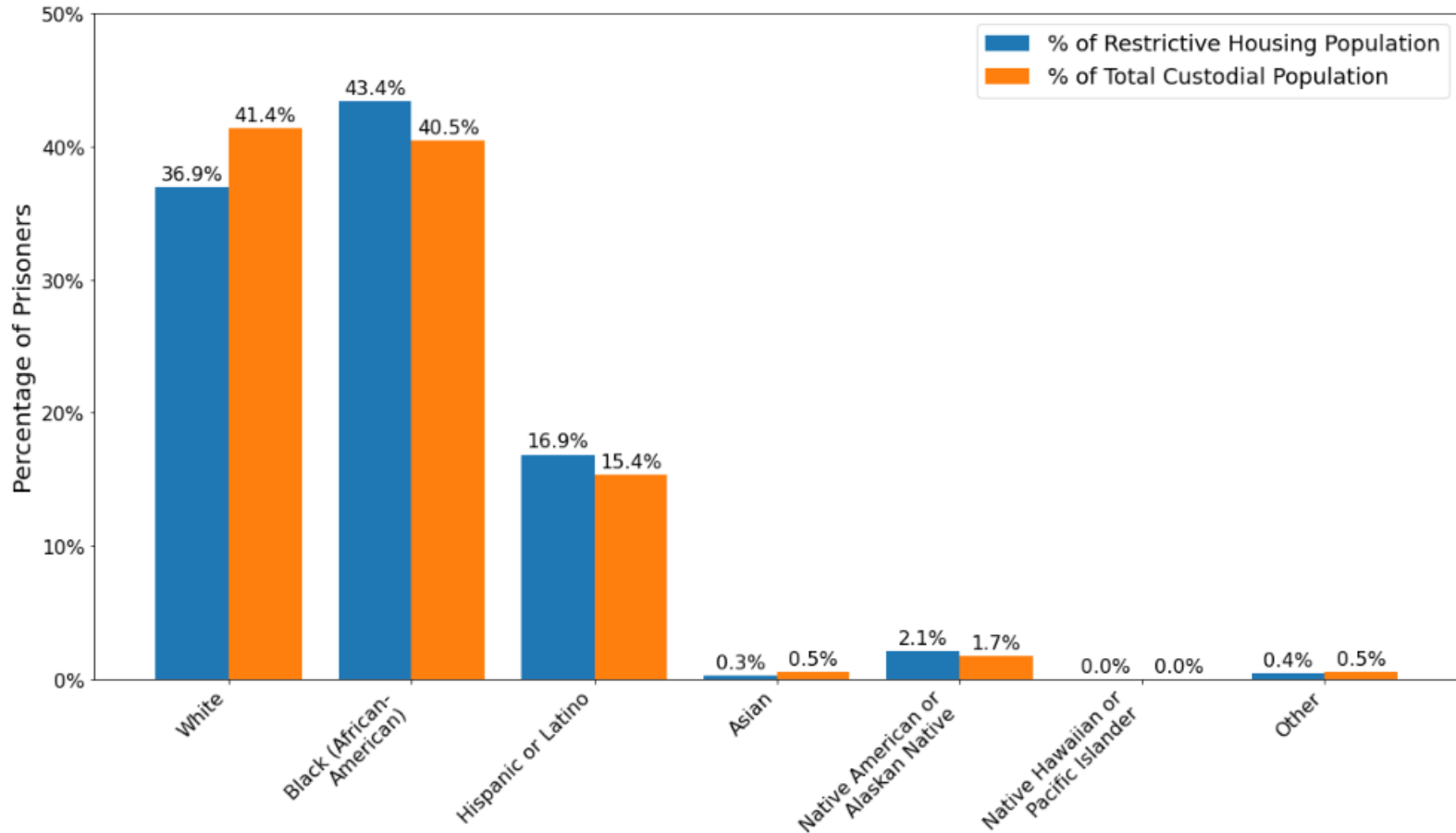
Race/Ethnicity of Male Prisoners in Restrictive Housing

n = 32

	Black Prisoners	Hispanic Prisoners
% of Total Custodial Population	40.5%	15.4%
% of Restrictive Housing	43.4%	16.9%
# of jurisdictions with over-representation in segregated housing as compared to the general population.	19	15
# of jurisdictions with under-representation in segregated housing as compared to the general population.	9	12

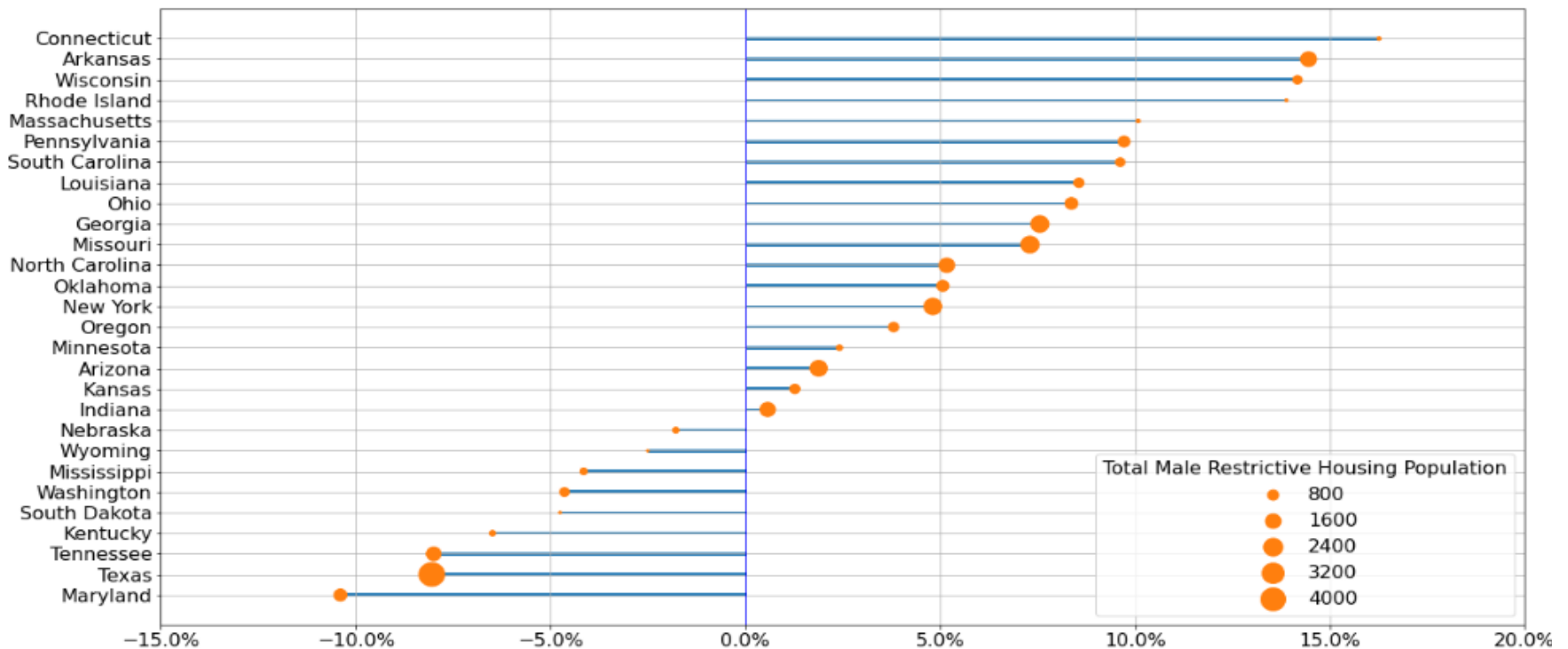
Racial and Ethnic Composition of Male Prisoners

$n = 32$



Difference in Restrictive Housing and Total Male Custodial Population For Black Male Prisoners

$n = 28$



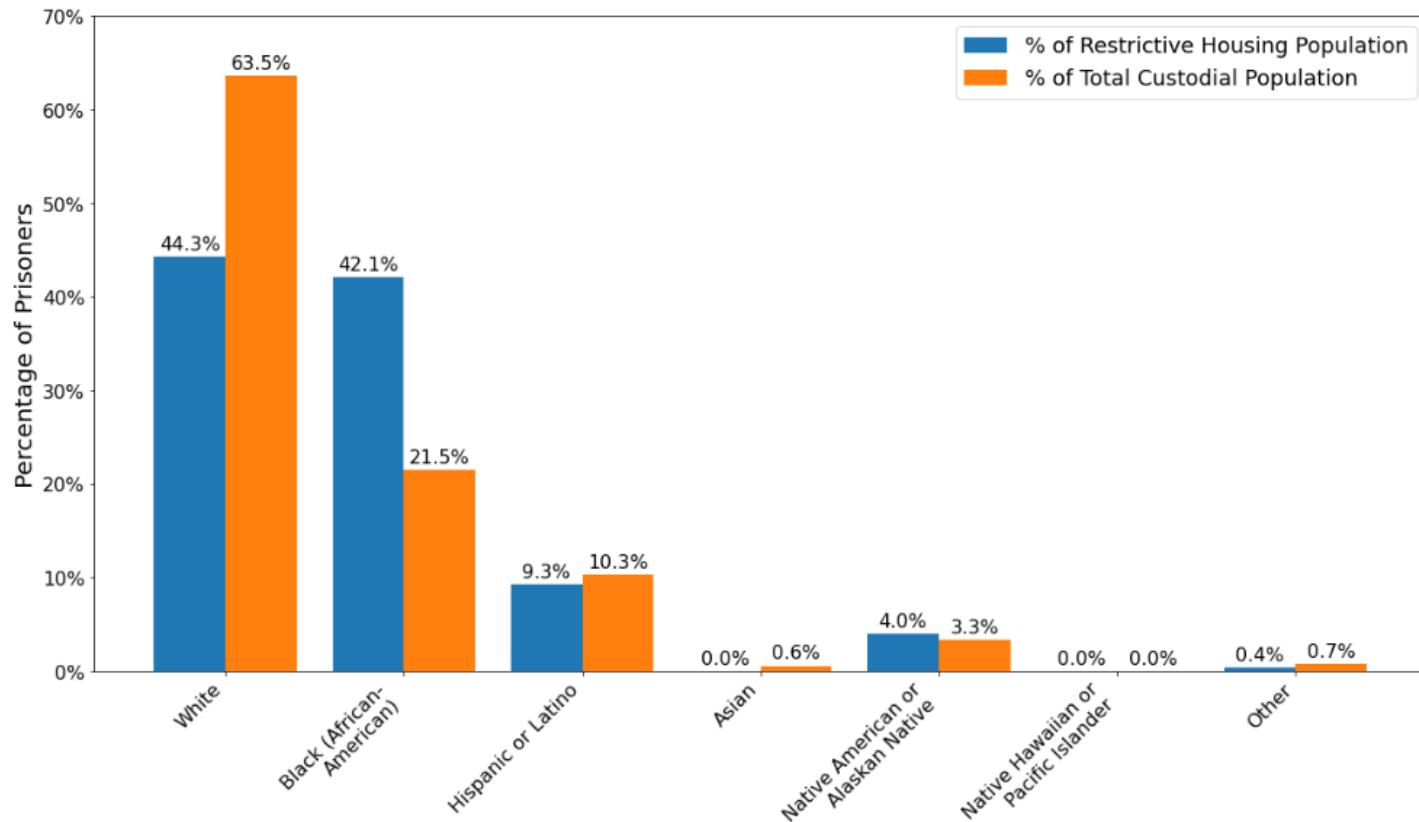
Race/Ethnicity of Female Prisoners in Restrictive Housing

n = 31

	Black Prisoners	Hispanic Prisoners
% of Total Custodial Population	21.5%	10.3%
% of Restrictive Housing	42.1%	9.3%
# of jurisdictions with over-representation in segregated housing as compared to the general population.	19	6
# of jurisdictions with under-representation in segregated housing as compared to the general population.	6	19

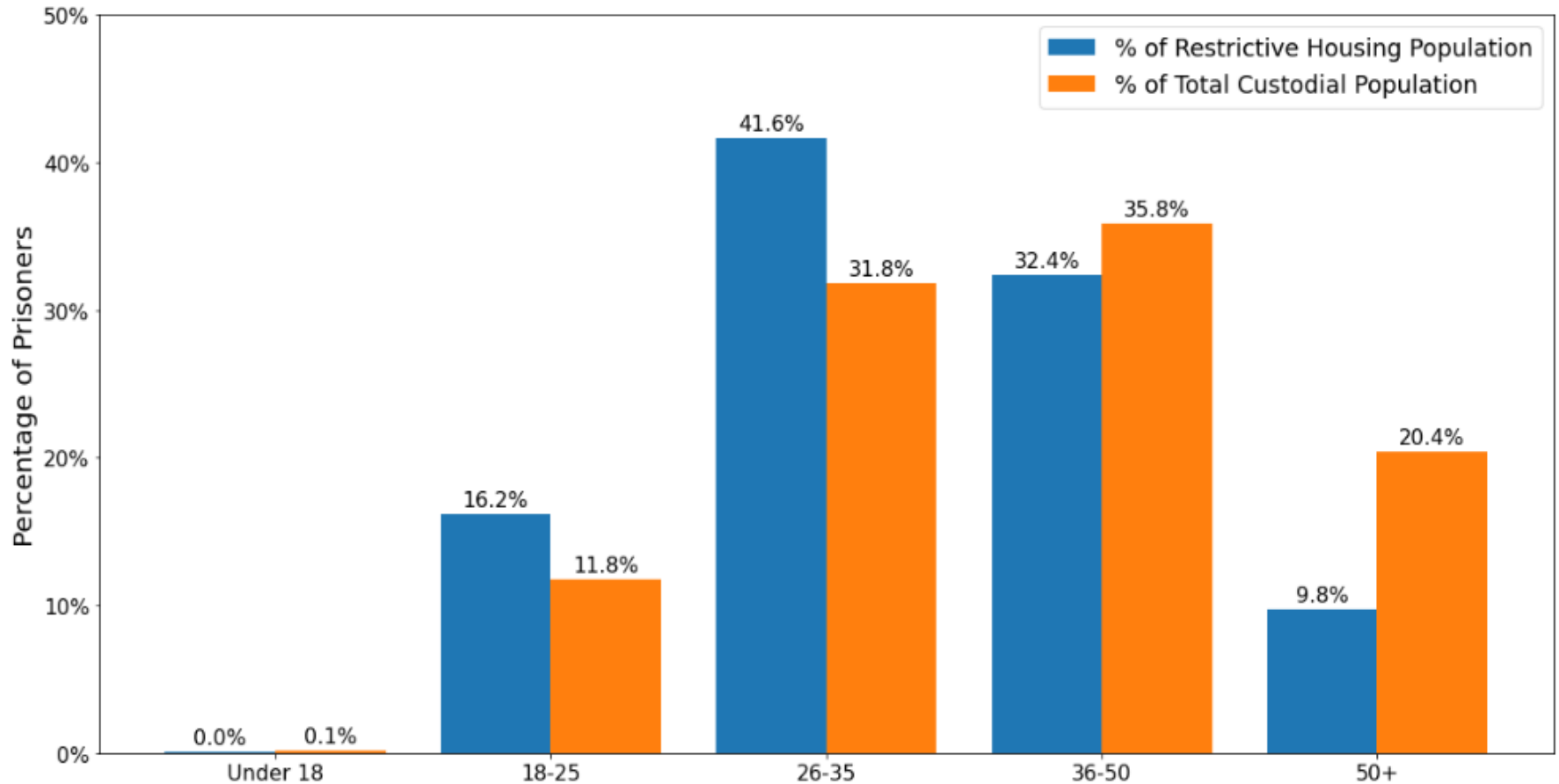
Racial and Ethnic Composition of Female Prisoners

$n = 31$



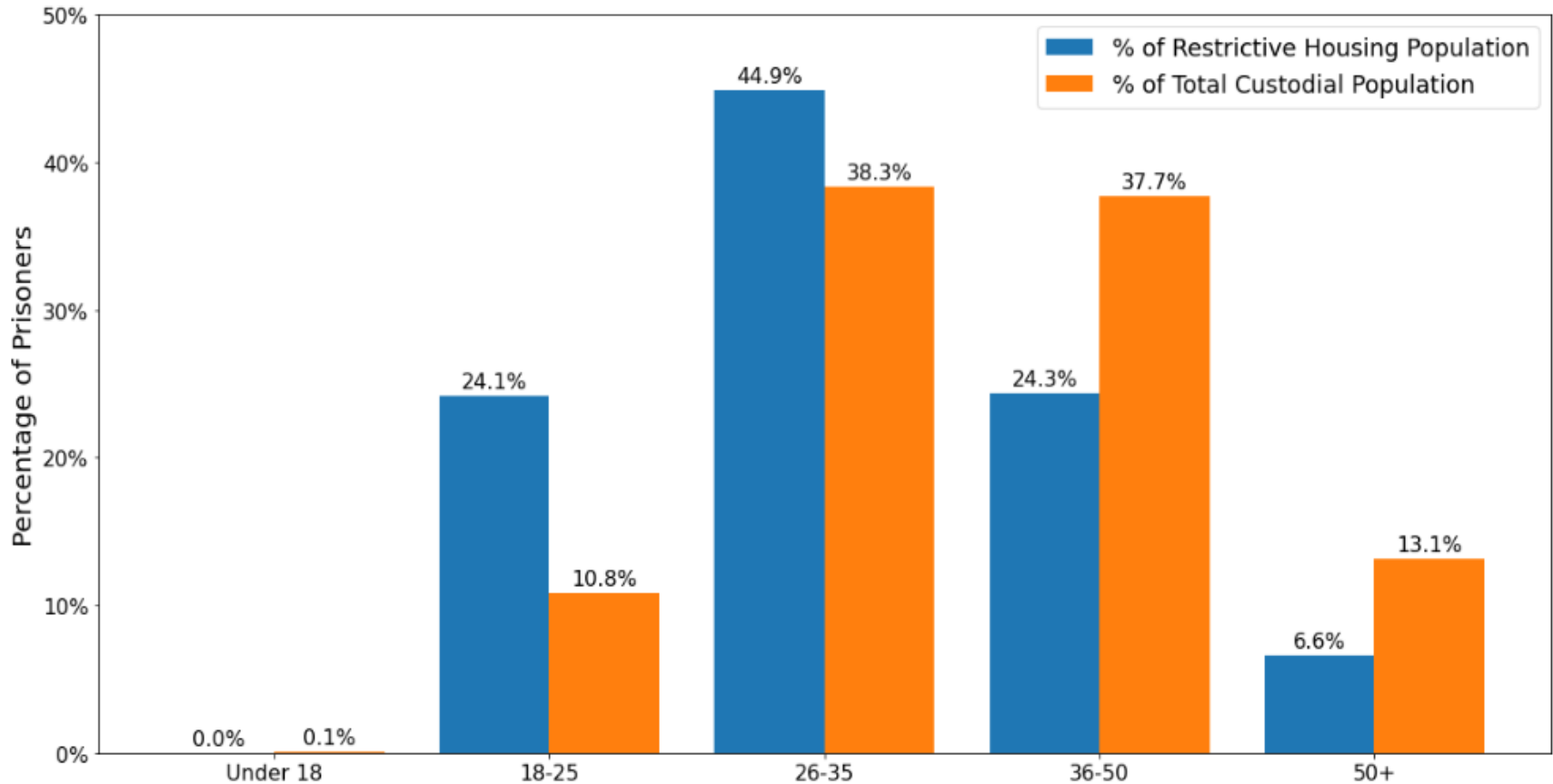
Male Prisoners in Restrictive Housing by Age

n = 32

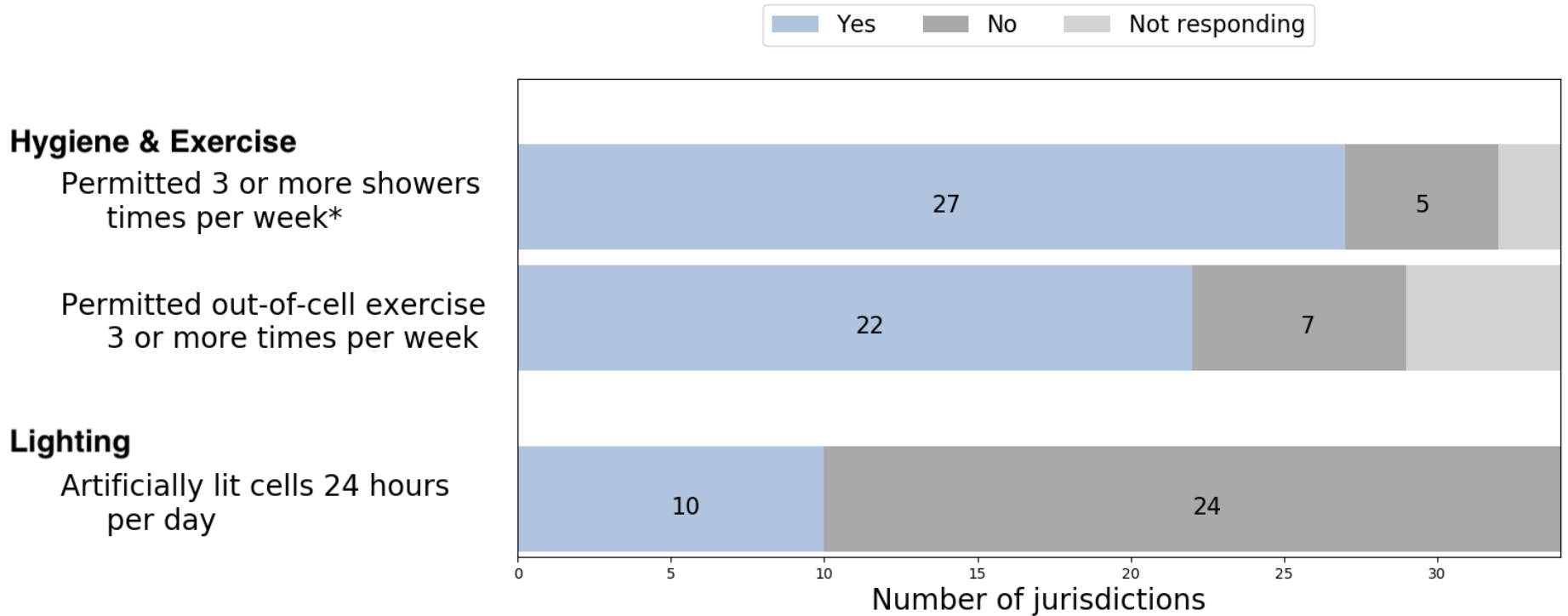


Female Prisoners in Restrictive Housing by Age

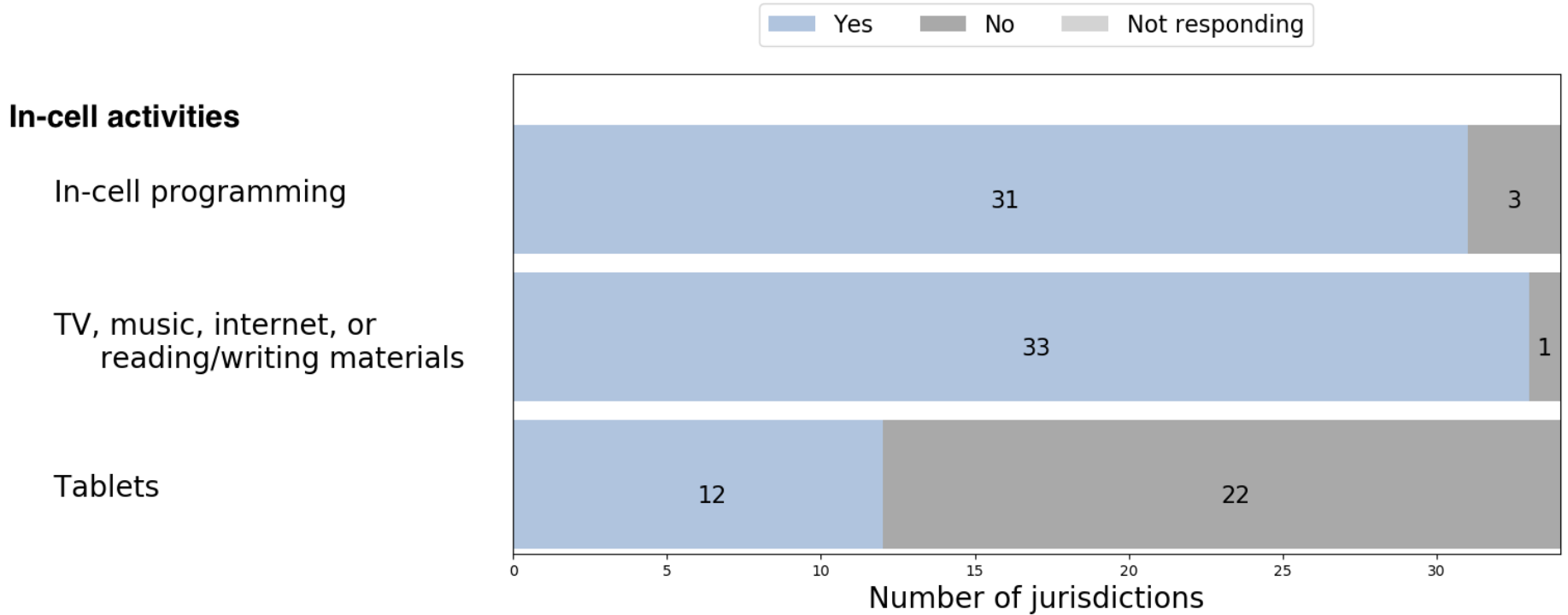
$n = 32$



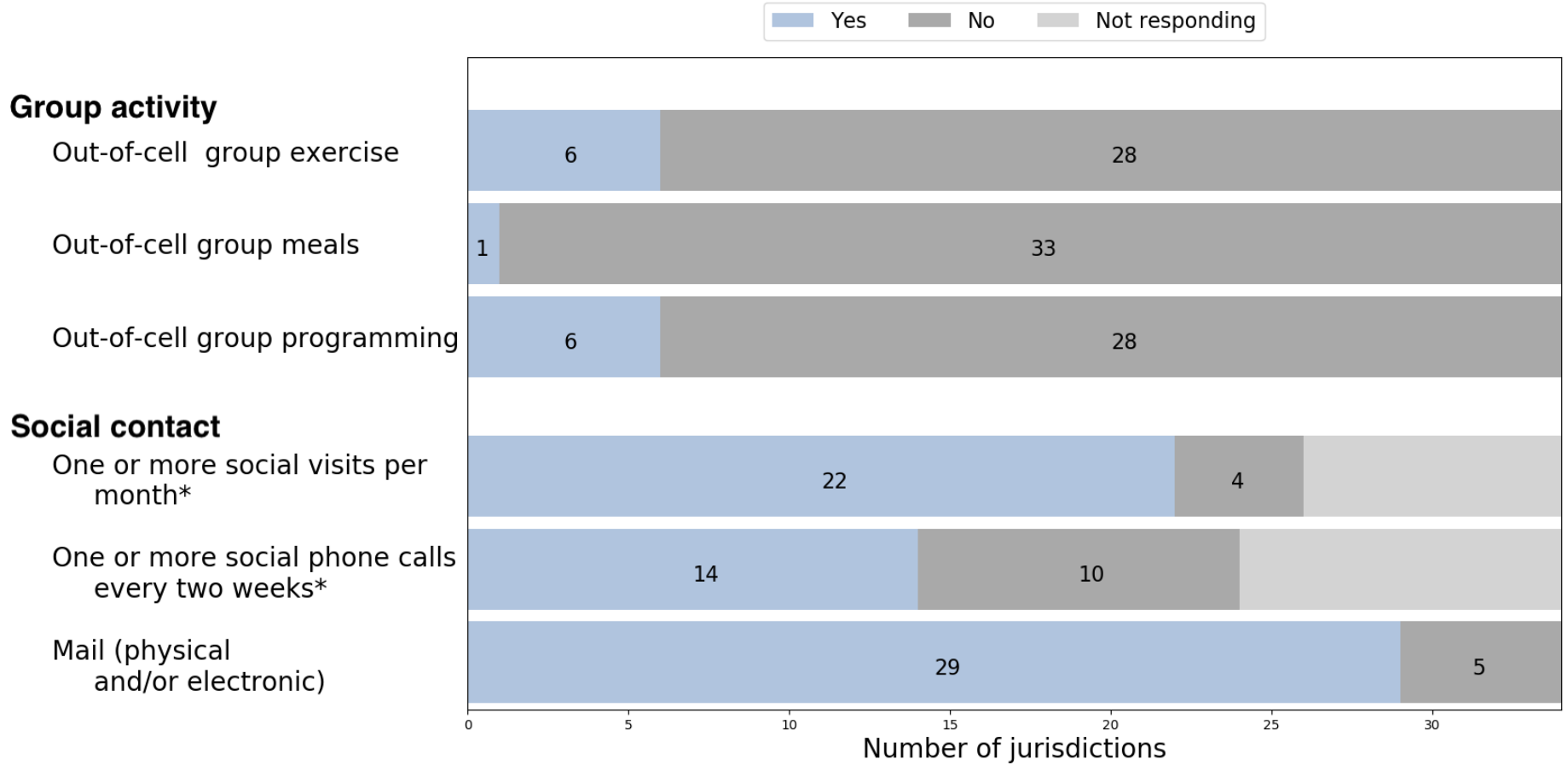
Dimensions of Living in Restrictive Housing



Dimensions of Living in Restrictive Housing



Dimensions of Living in Restrictive Housing



Varying Definitions of Serious Mental Illness

33 jurisdictions provided definitions, such as

“A clinical disorder that is a disorder of thought, mood or anxiety included under Axis I of the DSM IV (i.e., schizophrenia, major depression, bipolar disorder).”

“an inmate who has a chronic mental illness by history, diagnosis, or prognosis and requires repeated and prolonged periods of mental health care, and who exhibits persistent disability or impairment in the prison.

“Psychotic, Bipolar, and Major Depressive Disorders and any other diagnosed mental disorder (excluding substance abuse disorders) currently associated with serious behavioral impairment as evidenced by examples of acute decompensation, self injurious behaviors, multiple major rule infractions and mental health emergencies that require an individualized treatment plan by a qualified mental health professional”

See Appendix C

Pregnant Women and Transgender Prisoners

31 jurisdictions reported information on pregnant prisoners in general population

- 361 pregnant prisoners
- 1 pregnant prisoner in restrictive housing

35 jurisdictions reported on how they identify transgender prisoners; 27 provided numbers

- 2,371 transgender prisoners in total
- 112 transgender prisoners in restrictive housing

Ending 22 Hours on Average In-Cell for 15 Days or More

Four jurisdictions reported that they no longer house individuals in what the survey defined as “restrictive housing”

Colorado

Delaware

North Dakota

Vermont

State legislatures in several jurisdictions including New Jersey, Minnesota, Montana, and New Mexico have enacted changes to diminish the use of restrictive housing for general and sub-populations

Comparing Restrictive Housing Numbers from 2014 to 2020

	2014-2015 ASCA-Liman Survey	2015-2016 ASCA-Liman Survey	2017-2018 ASCA-Liman Survey	2019-2020 CLA- Liman Survey
Number of Jurisdictions Responding	34 jurisdictions, or 73% of prison population of 1.6 million people	48 jurisdictions, or 96.4% of prison population of 1.5 million people	43 jurisdictions, or 80.5% of prison population of 1.5 million people	39 jurisdictions, or 58% of prison population of 1.4 million people
# Prisoners Reported in Restrictive Housing	66,000+	67,442	50,422	31,542
Estimated Total Prisoners in Restrictive Housing in all U.S. Jurisdictions	80,000 – 100,000	not estimated given substantial reporting	61,000	55,000 – 62,500

Restrictive Housing as Percent of Total Custodial Population from 2015 to 2019

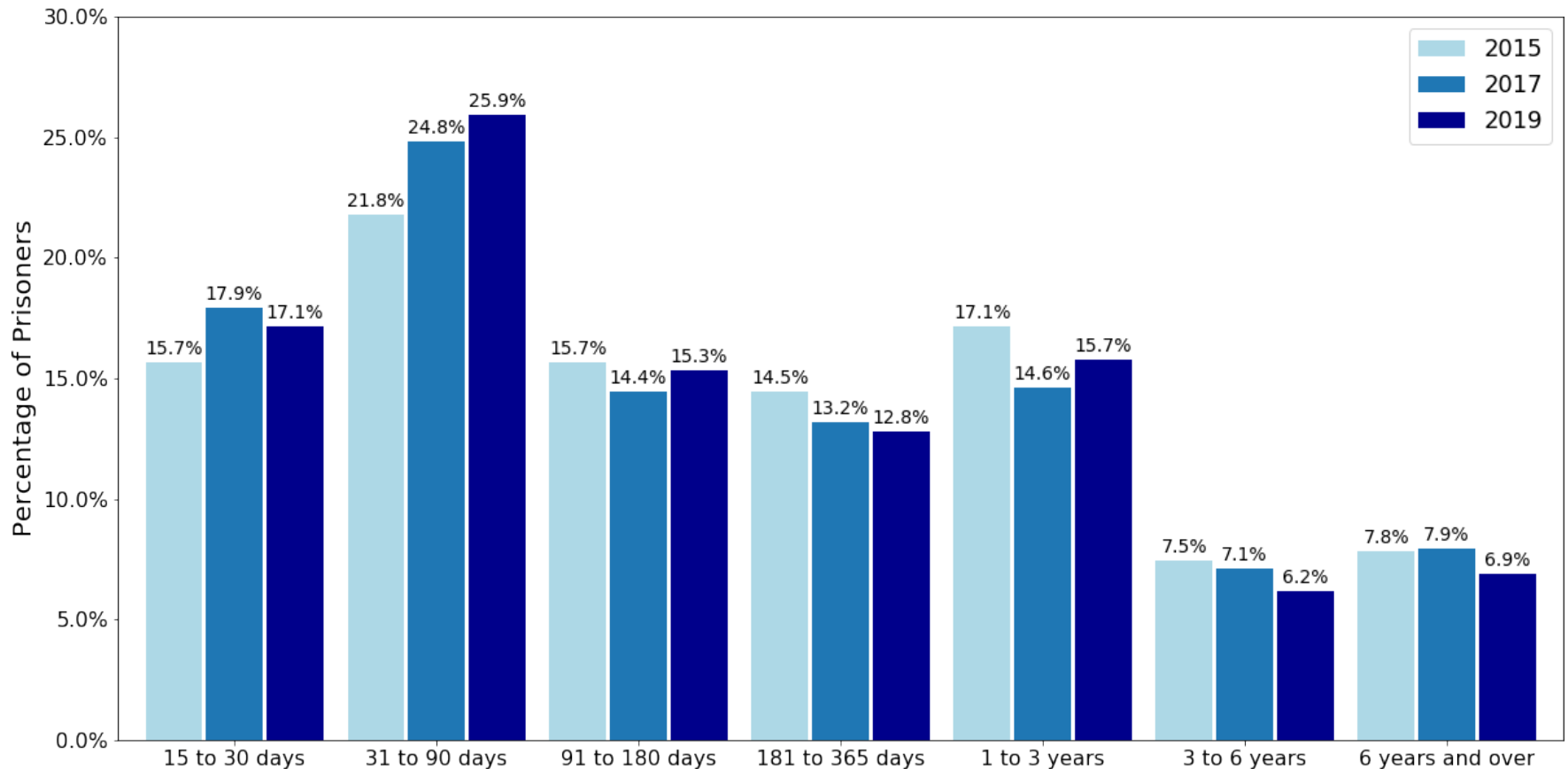
n = 33*

	2015	2017	2019
Minimum	0.5%	0.5%	0.8%
Maximum	14.5%	19.0%	9.0%
Survey-Wide Average	5.0%	4.4%	3.8%
Median	4.9%	4.0%	3.4%

* Including 33 jurisdictions reporting restrictive housing rates across all three years.

Comparing the Distributions of Prisoners in Restrictive Housing by Length of Time in 2015, in 2017, and in 2019

n = 24



Legislation Addressing Restrictive Housing, 2018 to 2020

29 jurisdictions considering or enacted legislation limiting the use of restrictive housing

15 states and the federal government enacted provisions — some comprehensive and others targeted to subpopulations and/or requiring reporting

8 states and the U.S. Congress had pending bills as of the spring of 2020

Comprehensive Reforms: The Example of New Jersey, 2019

Prohibits placement for “non-disciplinary reasons” unless there is a “substantial risk of serious harm” to the prisoner or others.

Prohibits placement of any prisoner in restrictive housing **for more than 20 consecutive days or for more than 30 days** in a 60-day period.

Prohibits use of isolation under conditions or **for periods of time that “foster psychological trauma,”** psychiatric disorders, or “serious, long-term damage” to the prisoner’s brain.

Restricts “isolated confinement” for “vulnerable populations” including prisoners under age 22; over age 64; with mental illness, developmental disabilities or a serious medical condition; who are pregnant or postpartum; who have a “significant auditory or visual impairment”; or who are “perceived to be” LGBTI.

A 314, S 3261, 2018-2019 Leg., Reg. Sess. (N.J. 2019).

Other states with general population reforms include New Mexico, Montana, and Minnesota

Enacted Legislative Reforms: Subpopulations

15 state jurisdictions and the federal government enacted statutes limiting or prohibiting restrictive housing for subpopulations

Pregnancy	Youth	Prisoners with serious mental illness, disability, or substance use disorder
<p>11 Jurisdictions:</p> <p>Florida Georgia Louisiana Maryland Montana Nebraska New Jersey New Mexico South Carolina Texas Virginia</p>	<p>7 Jurisdictions:</p> <p>United States Arkansas Montana Nebraska New Jersey New Mexico Washington</p>	<p>6 Jurisdictions:</p> <p>Colorado Minnesota Montana Nebraska New Jersey New Mexico</p>

Legislative Requirements for Reporting

Seven jurisdictions passed laws requiring data collection and reporting on the use of restrictive housing.

United States
Maryland
Michigan
Minnesota
Nebraska
New Mexico
Virginia

Illustrative is Minnesota's law that requires the commissioner of corrections to file an annual report with the legislature providing the number, ages, and races of prisoners in each institution placed in segregation, as well as the duration of the placements and information about transfers from segregation to the mental health treatment unit.



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