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		<b>SPECIAL NEEDS INMATE PROGRAMS</b>	

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**SUMMARY of REVISION/REVIEW**

Multiple revisions throughout. Incorporated policy directive 015-034.

APPROVED:

  
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PURPOSE

To provide for the identification and provision of appropriate services for inmates with special needs.

GENERAL

It is the policy of the Nebraska Department of Correctional Services (NDCS) to ensure that adequate care is provided for inmates with special needs. Special needs inmates may include, but are not limited to, inmates who have substance use disorders, inmates who are emotionally disturbed or suspected of being mentally ill, inmates with intellectual disabilities, sex offenders, and those who pose high risk for violence or are considered vulnerable offenders. A wide range of services is necessary to identify, properly evaluate, diagnose and treat these inmates successfully. Clinical and institutional staff shall refer offenders who may meet these criteria to Mental Health, Substance Abuse, Violent Offender, or Sex Offender review teams.

PROCEDURES

- I. Each institution or program shall provide services directed toward inmates exhibiting the following special conditions:
  - A. Mental or Emotional Illness
  - B. Intellectual or Developmental Disabilities
  - C. Physical Handicap or Infirm Condition
  - D. Substance Use Disorders
  
- II. Each institution or program shall ensure that these programs are collaborated and coordinated so that multiple problem inmates can receive individualized programming tailored to their needs.
  
- III. Each Institution that has a restrictive housing unit may maintain secure mental health housing within their housing unit.
  - A. Designated male inmates will be offered stabilization and treatment services with the goal of transitioning to general population or the Mental Health Unit at the Lincoln Correctional Center.
  - B. Designated female inmates will be offered stabilization and treatment services with the goal of transitioning to general population or the Strategic Treatment and Reintegration (STAR) Unit.
  - C. Inmates diagnosed with a Major Mental Illness (MMI) and living in the secure mental health unit will be offered, at a minimum, ten hours of association and movement time outside of their cell per week as established by the facility.
  - D. The 10 hours of association and movement time outside of their cell may include access to exercise yards, showers, visits, phone calls, mental health contact and programming, and other activities as determined by the Multi-Disciplinary Team (MDT).

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- E. In addition to the association and movement activities, MMI inmates assigned to the SMHU may have access to extra clothing, property and cell furnishings as determined by the MDT, subject to discussion with the Warden.
- F. MMI inmates assigned to the SMHU will be governed by the activities, property and movement parameters established for the SMHU and in their individual treatment plan.
- G. The SMHU assignment will override any DS/AS status.
- H. The SMHU assignment will be reviewed monthly by the MDT or more frequently if circumstances require.
- I. The MDT will make recommendations regarding which inmates will be assigned to or removed from the SMHU. However the Mental Illness Review Team (MIRT) will be the final authority regarding such placements or removal, subject to discussion with the warden.
- J. The MIRT will determine which MMI inmates will be assigned to or removed from the SMHU and maintain a prioritized transfer list.
- K. Each facility with a SMHU will have a determined number of cells and location for the SMHU cells.
- L. To the extent possible, all SMHU designated beds will be occupied at all times.
- IV. Single occupancy cells/rooms may be made available, when indicated, for the following:
  - A. Inmates with severe medical disabilities
  - B. Inmates suffering from Major Mental Illness with significant functional impairment
  - C. Sexual predators
  - D. Inmates likely to be exploited or victimized by others
  - E. Inmates who have other special needs for single housing
- V. A comprehensive individual mental health evaluation will be completed on specifically referred inmates within 14 days from the referral date. The evaluation will include, but not be limited to, the following:
  - Review of mental health screening and appraisal data.
  - Direct observation of behavior
  - Collection and review of additional data from staff observation, individual diagnostic interviews and tests assessing personality, intellect and coping abilities.
  - Compilation of the inmate's mental health history
  - Development of an overall treatment/management plan with appropriate referral.

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VI. NDCS Behavioral Health Review Teams

- A. The Mental Illness Review Team (MIRT) assists in the process of making appropriate treatment recommendations for high risk and high need offenders with major mental illness who are sentenced to the NDCS. MIRT will review referred offenders who have a current diagnosis of major mental illness (as defined in AR 115.23, *Mental Health Services*).
- B. Clinical Sex Offender Review Team (CSORT) makes clinical recommendations for sex offenders.
- C. Clinical Violent Offender Review Team (CVORT) assists in making clinical recommendations for violent offenders.
- D. Clinical Substance Abuse Review Team (CSART) assists in making clinical recommendations for substance abuse offenders.

All offenders with a current NDCS diagnosis of a major mental illness (as defined in AR 115.23) are considered special needs for the purposes of this Administrative Regulation.

VII. Those special needs inmates identified as being severely disturbed and/or having an intellectual disability will be evaluated for referral for placement in either appropriate non-correctional programs or facilities, or in specially designated units within institutions. Intellectual disability is characterized by deficits in general mental abilities such as reasoning, problem solving, planning, abstract thinking, judgment, academic learning, and learning from experience. Severe disturbance refers to mental illness of such intensity that suicidal, assaultive, or grossly disorganized behavior are evident, and for which medication and therapeutic supervision are the primary treatment modalities, or when an inmate is incapable of attending to basic physiological needs. When such inmates are transferred to a non-correctional setting, due process procedures, as specified by law, will be effected prior to such transfer. In emergency situations, a hearing is held as soon as possible after transfer.

VIII. Except in emergency situations, joint consultation will occur between the Warden and the responsible physician or his/her designee prior to taking action regarding the identified mentally ill or inmates with Intellectual Disabilities in the following areas:

- Housing assignments.
  - Program assignments.
  - Disciplinary measures.
  - Transfers to other institutions.
  - Use of force including Chemical Agents
- A subset of inmates diagnosed with major mental illness will be identified as recommended for consultation prior to use of chemical agents. A list will be maintained by the Mental Health Supervisor at each facility. The list will be reviewed by the institutional mental health treatment team. Changes in an inmate's status will be documented in the mental health record and on the Departmental network/correctional data management system so that the Warden or designee can review as needed.

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When an emergency has occurred that requires immediate action, this consultation occurs as soon as possible, but no later than on the next workday to review the appropriateness of the action.

**IX. INVOLUNTARY TRANSFER PROCEDURES**

When a physician, psychologist, or psychiatrist designated by the Director of (NDCS) is of the opinion that an inmate of the NDCS is suffering from a mental disease or defect that cannot be properly treated at NDCS, the NDCS Behavioral Health Assistant Administrator for Mental Health shall initiate proceedings to have the inmate evaluated for possible placement at a Department of Health and Human Services (HHS) facility.

The proceedings shall be conducted in accord with the Involuntary Transfer Procedures (Attachment A).

- To initiate an Involuntary Transfer Hearing the Behavioral Health Assistant Administrator for Mental Health designee shall prepare an Involuntary Transfer Application (Attachment B) and provide the required notice to the inmate using the Involuntary Transfer Hearing Notice (Attachment C).

**X. INVOLUNTARY MEDICATION PROCEDURES**

A. The involuntary admission of psychotropic medication(s) to an inmate is governed by applicable laws and regulations of the jurisdiction. When administered, the following conditions must be met:

1. Authorization is by a physician who specified the duration of therapy;
2. Less restrictive intervention options have been exercised without success as determined by the physician or psychiatrist;
3. Details are specified about why, when, where, and how the medication is to be administered;
4. Monitoring occurs for adverse reactions and side effects;
5. Treatment plan goals are prepared for less restrictive treatment alternatives as soon as possible.

B. Except in an emergency situation, when a physician, psychologist, or psychiatrist designated by the Director of the NDCS is of the opinion that an inmate of the NDCS suffers from a mental disorder and is gravely disabled or poses a likelihood of serious harm to self/others or their property and is refusing to take medication that is required to treat the mental disorder, the NDCS Behavioral Health Assistant Administrator for Mental Health or his/her designees shall initiate proceedings to determine whether the inmate should be placed on involuntary medication.

The proceedings shall be conducted in accord with the Involuntary Medication Procedures. (Attachment D)

- To initiate an Involuntary Medication Hearing the Behavioral Health Assistant Administrator for Mental Health/designee shall prepare an Involuntary

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Medication Application (Attachment E) and provide the required notice to the inmate using the Involuntary Medication Hearing Notice (Attachment F). The summary of the involuntary medication hearing and the order shall follow the format of Attachment G.

C. Emergency Psychotropic Medication

For purposes of this subpart, a psychiatric emergency is defined as one in which a person is suffering from a mental illness which creates an immediate threat of bodily harm to self or others, serious destruction of property, or extreme deterioration of functioning secondary to psychiatric illness. During a psychiatric emergency, psychotropic medication may be administered when a licensed physician determines in his/her professional judgment that the medication constitutes an appropriate treatment for the mental illness and less restrictive alternatives (e.g., seclusion or physical restraint) are not available or indicated, or would not be effective.

REFERENCE

- I. Jones v. Vitek, 445 US 480 (3/25/80). Inmates must be afforded procedural due process before being transferred to a mental institution, including (1) notice of contemplated transfer; (2) hearing, following notice of hearing, including the disclosure of evidence relied upon by the State; (3) an opportunity to present witnesses and evidence; (4) an independent decision maker; and (5) a written decision by the fact finder.
- II. Journey v. Vitek, CV78-L-250 (7/20/81). Although the court found that the Rehabilitation Act of 1973 (29 USC Section 794) requires that handicapped inmates have access to correctional programs, the court found that the plaintiff was not denied such access.

III. ATTACHMENTS

- A. Involuntary Transfer Procedures
- B. Involuntary Transfer Application
- C. Involuntary Transfer Hearing Notice
- D. Involuntary Medication Procedures
- E. Involuntary Medication Application
- F. Involuntary Medication Hearing Notice
- G. Summary of Involuntary Medication and Order

IV. AMERICAN CORRECTIONAL ASSOCIATION (ACA) STANDARDS

- A. Standards for Adult Correctional Institutions (ACI) (4th edition):4-4143, 4-4144, 4-4372, 4-4374, 4-4399, 4-4404
- B. Performance Based Standards for Adult Community Residential Services (ACRS) (4th edition): 4-ACRS-6A-04