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SUMMARY OF REVISION/REVIEW

PROCESS - I.G. – Language updated. Minor grammar changes throughout.

APPROVED:


Rob Jeffreys (Jun 24, 2024 10:38 CDT)
 Rob Jeffreys, Director
 Nebraska Department of Correctional Services

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PURPOSE


To provide a uniform process, in compliance with Neb. Rev. Stat. §83-173.03 and Title 72, Neb. Admin. Code, CH 1 for the use of restrictive housing to ensure that it is an alternative of last resort and will be utilized in the least restrictive manner possible for the least amount of time consistent with the safety and security of NDCS team members, incarcerated individuals, and the facility. Alternatives to restrictive housing shall be used in every case possible rather than placing an incarcerated individual in restrictive housing as a standard response to rule breaking, disruption, and vulnerability. Behavior shall be managed primarily through programming, behavioral plans, incentives, and mission-specific housing instead of relying primarily on sanctions. (ACI-4B-01, ACI-4B-03)

This policy establishes specific levels of confinement outside of general population, including Immediate segregation housing, longer-term restrictive housing, and provisions for acute, subacute, and chronic care mental health housing; defines behaviors, conditions, and mental/behavioral health statuses whereby an incarcerated individual may be placed in each confinement level; defines and mandates processes and procedures for making these determinations for each level of confinement; and describes and mandates individualized transition plans for promotion to less restrictive housing assignments at the earliest opportunity that maintains safety and security. (ACI-4B-01, ACI-4B-04)


Each facility, consistent with its function and the nature of its incarcerated population and programs, shall develop its own version of this policy within the limits and expectations that follow.

DEFINITIONS

- I. **ACUTE MENTAL HEALTH UNIT (AMHU)** - A unit that provides controlled and highly structured housing for individuals in need of clinical mental health treatment and intervention due to active suicidal ideation, acute or debilitating mental illness, developmental or intellectual disabilities, and/or traumatic brain injuries that interfere with their safety and/or ability to function effectively in the mental health unit or general population due to risk of harm to self, NDCS team members, or other individuals.
- II. **BEHAVIOR/PROGRAMMING PLAN (BPP)** - A document with a standard format used to identify desired behavior changes, programming opportunities offered and approaches to facilitate those behavioral changes.
- III. **CHRONIC CARE MENTAL HEALTH UNIT (CCMHU)** - A unit that provides a controlled and highly structured alternative to restrictive housing for individuals in need of residential mental health treatment due to chronic and unstable mental illness and/or developmental/intellectual disabilities and/or traumatic brain injuries that interfere with their safety and/or ability to function effectively in the mental health unit or general population due to risk to themselves, NDCS team members, and/or other incarcerated individuals.
- IV. **CONTROLLED MOVEMENT UNIT (CMU)** - Unit used to house incarcerated individuals that have a demonstrated history of facility behavior that is disruptive to the effective operations of the facility. Individuals assigned to a controlled movement unit will receive a minimum of six hours of out-of-cell time per day and may transition to a regular general population housing assignment after meeting established behavioral expectations.

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- V. **GENERAL POPULATION (GP)** - All incarcerated individual housing areas that allow out-of-cell movement without the use of restraints, a minimum of six hours per day of out-of-cell time, and regular access to programming areas outside of the living unit.
- VI. **HOLDING EVENT** – Any placement of an incarcerated individual, lasting four hours or less, in a holding cell for non-routine purposes with the intent to de-escalate/defuse a conflictual situation and from which every attempt will be made to ensure alternatives to restrictive housing are used.
- VII. **IMMEDIATE SEGREGATION (IS)** - A short-term restrictive housing assignment of not more than 30 days in response to behavior that creates a risk to the incarcerated individual, others, or the security of the facility. Immediate Segregation (IS) is used to maintain safety and security while investigations are completed, risk and needs assessments are conducted, and appropriate housing is identified. Exceptions to this timeframe require the prior approval of the deputy director-prison operations and/or the director.
- VIII. **LONGER-TERM RESTRICTIVE HOUSING (LTRH)** - A classification-based restrictive housing assignment of over 30 days. Longer-Term Restrictive Housing (LTRH) is used as a behavior management intervention for incarcerated individuals whose behavior continues to pose a risk to the safety of themselves or others and includes incarcerated individual participation in the development of a plan for transition back to general population or mission-specific housing.
- IX. **MISSION-SPECIFIC HOUSING (MSH)** – Housing focused on individual needs and demographics to provide effective living conditions and programming for specific populations. Mission-specific housing includes residential treatment and responses to cognitive disabilities as well as prosocial options for incarcerated individuals with common interests and challenges. The goal is to reduce behaviors that otherwise might lead to restrictive housing, provide risk- and needs-responsive options to facilitate transitions from restrictive housing to the general population, and concentrate services and program availability to this population.
- X. **MULTIDISCIPLINARY REVIEW TEAM (MDRT)** - A team comprised of the deputy director-prison operations (chair), with input from the following representatives: the behavioral health clinician, a leader from the intelligence/investigation unit and a representative from classification programs. Others may be added at the discretion of the chair or the director. Any delegation of representation on the MDRT must be approved, in advance, by the chair. The MDRT shall meet weekly.
- XI. **PROTECTIVE MANAGEMENT UNIT (PM)** - Units used to house incarcerated individuals who cannot be safely housed in other general population units. Whenever possible, protective management units are operated similarly to general population units in out-of-cell time, access to programming, work, and recreation, etc.
- XII. **RESTRICTIVE HOUSING (RH)** - Conditions of confinement as defined by Neb. Rev. Stat. §83-170(13).
- XIII. **SERIOUS MENTAL ILLNESS** – A mental health condition as defined by Neb. Rev. Stat. §44-792(5)(a) and (b).
- XIV. **SOLITARY CONFINEMENT** - A status of confinement of an as defined by Neb. Rev. Stat. §83-170(14). NDCS does not utilize solitary confinement.
- XV. **STEP-DOWN PROGRAM** - A program that includes a system of review and establishes criteria to prepare an incarcerated individual for transition to general population or the community.

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Individualized programs involve a coordinated, multidisciplinary team approach that includes mental health, case management, and security practitioners. Medical personnel will be part of the multidisciplinary team when incarcerated individuals who have chronic care or other significant medical accommodation needs participate in this program. (ACI-4B-31)

XVI. **VULNERABLE POPULATION** – A population of incarcerated individuals as defined by Neb. Rev. Stat. §83-173.03(4).

PROCESS

I. USE OF RESTRICTIVE HOUSING

- A. Alternatives to restrictive housing shall be used in every case possible – including but not limited to: short-term cell restrictions, loss of other privileges, restitution, changes to work, housing and/or programming assignments – rather than placing an incarcerated individual in restrictive housing as a standard response to rule breaking, disruption, and vulnerability, see Policy 210.03 *Mission Specific Housing*.
- B. Restrictive housing shall be used in the least restrictive manner possible, consistent with facility safety and security. Restrictive Housing units provide living conditions that approximate those of the general incarcerated population; all exceptions are clearly documented. When restrictive housing is used, the purpose shall be two-fold: short-term risk assessment and longer-term risk/needs intervention. Short-term restrictive housing, or IS, provides time to assess the risk the individual poses to safety and security. The guiding focus of LTRH shall be on individualized goal planning, behavior change, and treatment that will facilitate the incarcerated individual's capacity to live successfully in general population and return successfully to the community. (ACI-4B-04)
- C. An incarcerated individual who has a SMI diagnosis and has a Level of Care (LOC) 3, 4, or 5 shall not be held in a restrictive housing location and shall instead be diverted to the least restrictive environment and provided with risk- and needs-responsive therapeutic settings that are interactive, constructive, and based on individualized interventions balanced with safety and security. (Neb. Rev. Stat. §83-180, §83-173.03)
- D. Incarcerated individuals will not be placed in restrictive housing on the basis of gender identity alone. (ACI-4B-34)
- E. The use of restrictive housing for incarcerated individuals diagnosed with traumatic brain injury (TBI), incarcerated individuals diagnosed with a developmental disability, and incarcerated individuals who are age 18 shall be limited to IS only and shall not be permitted to progress to LTRH. The use of restrictive housing for incarcerated individuals who are members of a vulnerable population requires approval of the warden within 8 hours of placement. Placement of incarcerated individuals diagnosed with TBI or developmental disabilities, and incarcerated individuals who are 18 on IS shall require the approval of the warden within eight hours of placement. (ACI-4B-32, ACI-4B-33, Neb. Rev. Stat. §83-173.03)
- F. Incarcerated individuals age 17 or younger and pregnant incarcerated individuals shall not be placed in restrictive housing. (Neb. Rev. Stat. §83-173.03)

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G. As described in this policy, the duties of the director, deputy director, and warden are not to be permanently assigned to a designee, but may be performed by an approved team member including: assistant director as acting director, department head/assistant deputy director/warden as acting deputy director, and deputy/assistant/associate warden as acting warden.

II. HOLDING EVENT

See *Holding Event Flowchart* (Attachment A)

A. Any time an incarcerated individual is placed in a holding cell for non-routine purposes (III.A.1-6 below) every attempt will be made to ensure alternatives to IS are used. A holding event shall not exceed four hours. In the event additional time is needed, such should be approved by the warden and communicated to the deputy director-prison operations.

B. The shift supervisor will review all relevant reports and information to determine if the incarcerated individual's actions warrant placement on immediate segregation status. A restrictive housing event will be created, to include date, time, summary of the incident, and significant risk reason. (ACI-4B-02)


C. The shift supervisor will note the disposition of the review of IS in the restrictive housing event. The disposition may include, but is not limited to, return to current housing assignment, placement in mission-specific housing, use of approved alternatives (Process I.A.), transfer to another facility, or placement on immediate segregation status. Should the review determine the incarcerated individual will not be placed on IS; the restrictive housing event should be ended.

III. IMMEDIATE SEGREGATION

See *Immediate Segregation Flowchart* (Attachment B)

A. Incidents that could result in placement on IS status are limited to the following: (ACI-4B-02)

1. A serious act of violent behavior (i.e., assaults or attempted assaults) directed at an NDCS team member and/or at other incarcerated individuals.
2. A recent escape or attempted escape from secure custody.
3. Threats or actions of violence that are likely to destabilize the facility environment to such a degree that the order and security of the facility is significantly threatened.
4. Active membership in a "security threat group" (prison gang), accompanied by a finding, based on specific and reliable information, that the incarcerated individual either has engaged in dangerous or threatening behavior directed by the security threat group or directs the dangerous or threatening behavior of others.
5. The incitement or threats to incite group disturbances in a correctional facility.
6. Incarcerated individuals whose presence in the general population would create a significant risk of physical harm to an NDCS team member, themselves and/or


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other incarcerated individuals (a written explanation of the event and decision must be included).

B. If placement on IS status is determined to be necessary:

Upon determination that IS status is necessary and prior to placing the incarcerated individual in his/her assigned cell, the shift supervisor will initiate the medical assessment process. A Health Services team member must conduct a face-to-face assessment of the incarcerated individual to identify any physical injuries, urgent mental health needs, or other urgent conditions. See Policy *115.05 Health Screenings, Examinations, Appraisals & Reviews, Attachment F.* (ACI-4B-28)

1. A Health Services team member will consult the incarcerated individual's medical and mental health file prior to beginning the assessment.
2. A Health Services team member will complete the Restrictive Housing Self-Report Suicide Screening with the incarcerated individual.
 - a. If, during the initial screening by a health services team member, the incarcerated individual: answers yes to Protocol 50, Questions 1-7, is not cooperative with the exam, and/or has been diagnosed with a serious mental illness, the incarcerated individual shall be seen by a mental health team member for a one-on-one, out-of-cell assessment within 24 hours.
 - 1) 24 hours is calculated from the time of placement on IS status as noted by the shift supervisor.
 - b. If the mental health needs are deemed to be emergent, the incarcerated individual shall be held in a location other than restrictive housing until a mental health screening can be completed.
 - c. When Health Services has completed the restrictive housing self-report suicide screening with the incarcerated individual, the shift supervisor will upload the assessment into the *Self-Report Suicide Screening* section on the Restrictive Housing Dashboard.
3. Incarcerated individuals who present with a LOC 3, 4, 5, shall be assigned to an acute or subacute housing unit, a skilled nursing facility, or a designated observation cell.
4. A restrictive housing unit team member shall notify the facility central control center of the incarcerated individual's restrictive housing unit cell assignment. A facility central control center team member shall update the cell assignment in the Corrections Tracking System (CTS/C-1) and a restrictive housing unit team member shall update the segregated status in NICaMS.
 - a. Both updates shall be made within two hours or prior to the next scheduled facility count, whichever comes first.


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5. The shift supervisor shall provide the incarcerated individual the opportunity to provide a statement relative to this placement on the *Immediate Segregation Incarcerated Individual Statement* form (Attachment C).
 - a. If the incarcerated individual refuses to provide a statement, an NDCS team member shall attempt to obtain a verbal statement and document these comments on an Incident Report.
 - b. If the incarcerated individual refuses to make a statement, such shall also be documented on an Incident Report. Documentation of refusals to provide a statement shall include two NDCS team member witness signatures.
 - c. At the time of placement, either the Incarcerated Individual Statement or the Incident Report documenting the verbal statement or refusal to make a statement shall be uploaded into the documents section with the appropriate label.

6. The Notice of Immediate Segregation Review form shall be presented to the incarcerated individual for acknowledgement and signature. In the event the incarcerated individual refuses to sign the Notice of Immediate Segregation Review form, this should be noted on the form and a second team member must sign in verification of this refusal. The completed form should then be uploaded to the documents section of NICaMS and a copy shall be given to the incarcerated individual. Additionally, the completed form and immediate segregation packet will be uploaded to the *Restrictive Housing Dashboard* documents section and the *Supervisory Incident Reports Dashboard* of NICaMS.

7. The warden will receive notification of an incarcerated individual's assignment to IS status.

8. Utilizing the appropriate channels available on the NICaMS Restrictive Housing Dashboard, the warden will review IS placements within 24 hours (8 hours for vulnerable populations noted above). (ACI-4B-02)
 - a. A 24-hour warden review includes but is not limited to: ensuring appropriate use of restrictive housing and ensuring accuracy and completeness of documentation related to placement.
 - b. If the warden approves continued IS status, the incarcerated individual will be advised that his/her status will again be reviewed by the warden within 7 days and that they may appeal this decision by submitting an *IS Appeal Form* (Attachment D) to the warden.
 - c. A printed copy of the completed Notice of Immediate Segregation Review form shall be provided to the incarcerated individual at the time of the review. A signed copy will be uploaded to the documents section in NICaMS.

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- d. If an incarcerated individual is removed from and reassigned to restrictive housing for the same reason within a 24-hour period, the initial restrictive housing event shall be continued.

- C. All incarcerated individuals on IS status shall receive a mental health screening within 14 days. This screening will take place in a location outside of the incarcerated individual's cell. An incarcerated individual may decline to talk with a provider. Force shall not be used to bring an incarcerated individual to the consult with the provider unless there is a clear life-threatening issue or serious decompensation is noted.


- D. Incarcerated individuals with a serious mental illness diagnosis whose current level of functionality does not require residential treatment shall be seen for a one-on-one out of cell consult with a mental health provider every seven days while on Immediate Segregation status.

- E. An incarcerated individual's IS status must be reviewed by the warden within 7 calendar days. The review will include initial placement form, the Incarcerated individual Statement (or refusal), and any additional information gathered since the placement on IS status.
 - 1. It is the expectation that the warden has enough information at this time to determine whether the incarcerated individual should be placed in alternative housing, returned to general population or referred for assignment to LTRH.

- F. Every effort shall be made to assign the incarcerated individual to a less-restrictive housing location or to LTRH within 21 calendar days of placement on IS status. In only exceptional cases shall an extension of the IS status be allowed.
 - 1. Requests for extensions of IS past 30 days shall require approval by the deputy director-prison operations and must be recommended by the warden and submitted within 21 calendar days of initial placement. The warden will notify the deputy director-prison operations via e-mail when the request for an extension is submitted. Any request submitted requires a detailed written explanation.
 - 2. Requests for extensions of IS past 45 days shall require approval by the director and must be recommended by the warden and submitted through the deputy director-prison operations within 38 calendar days. Any request submitted requires a detailed written explanation. The warden shall notify both the deputy director-prison operations and the director via e-mail when the request for an extension is submitted.
 - 3. No incarcerated individual shall remain on IS for more than 60 days.

- G. Once an incarcerated individual is assigned to IS by the warden, removal from this status must be approved by the warden. Said approval must be documented on an Immediate Segregation Review in NICaMS.

- H. When an incarcerated individual is removed from IS status, a restrictive housing unit team member shall notify the facility central control center of the incarcerated individual's new cell assignment. A central control center team member shall update the cell assignment in the Corrections Tracking System (CTS/C-1) and a restrictive housing unit team member

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shall update the segregated status in NICaMS. Both updates shall be made within two hours or prior to the next scheduled facility count, whichever comes first.


IV. LONGER-TERM RESTRICTIVE HOUSING (LTRH)

See *Longer-Term Restrictive Housing Flowchart* (Attachment E)

- A. LTRH shall be used when incarcerated individuals need more intensive supervision and intervention before promotion to an appropriate non-restrictive housing assignment. LTRH is a targeted individualized intervention with a primary emphasis on pro-social behavior, interactions with others, life-view change, incentives for positive change, and successful transition to lower levels of security. Consideration at all levels of review must be given to the mental health needs of the individual.
- B. Any time served in IS shall be credited to the determinant restrictive housing assignment. (ACI-4B-07)
- C. All assignments to LTRH require a four-tiered classification process involving a Unit Classification Committee (UCC), an Institutional Classification Committee, the warden review, and the Multi-Disciplinary Review Team.

Tier 1 – UCC: For restrictive housing actions, the Unit Classification Committees (UCC) shall include, but not be limited to, the unit manager, unit case manager, and unit sergeant. The UCC will initiate all classification and reclassification actions, conduct the classification hearing, which includes incarcerated individual participation, and make specific recommendations. The classification hearing will be conducted outside of cell in a location that affords incarcerated individuals a reasonable expectation of privacy. The LTRH classification action will include: the LTRH Referral, the most recent custody classification action form, the most recent STRONG-R scores, a Behavior/Programming Plan (NICaMS), Incarcerated individual Contact Notes (NICaMS) to include all entries during the current restrictive housing placement and, if applicable, a Confidential Intelligence Memo (NICaMS) and a *Restrictive Housing Individual Treatment Plan* (Attachment F).

1. A RH unit team member shall give the incarcerated individual the LTRH Hearing Notice at least 48 hours in advance of the UCC hearing. This notice shall include the following:
 - a. The date, time, and place of the classification hearing.
 - b. The reason LTRH status is being considered, to include copies of the LTRH Referral form, his/her Behavior/Programming Plan (NICaMS) and, if applicable, his/her *Restrictive Housing Individual Treatment Plan* (Attachment F).
 - c. The incarcerated individual will be advised that he or she may present a written appeal of the recommendation action at the time of his/her classification hearing to be considered by the warden and MDRT in the review of his/her status.
2. The UCC hearing shall be impartial. The UCC may recommend that the incarcerated individual be removed from IS status or assigned to or continued on


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LTRH status. Members of the UCC shall be documented on the LTRH Referral NICaMS screen.

- a. The incarcerated individual may request a continuance of the hearing by making a written request for additional time to prepare a response.
- b. If an incarcerated individual's English reading and writing skills do not support preparing a written request, or the issues are so complex that the incarcerated individual may not be able to present a response, the incarcerated individual will be provided a NDCS team member representative or assistance in preparing a request.
- c. If an incarcerated individual is unable to speak or understand English, the incarcerated individual may be provided a NDCS team member or other interpreter.
- d. During the hearing, the UCC shall inform the incarcerated individual of any relevant information being considered.
- e. The incarcerated individual shall have the opportunity to refute the information presented, submit a written appeal of the recommendation and/or any other pertinent information. If an incarcerated individual's English reading and writing skills do not support preparing a written appeal, the incarcerated individual shall be provided assistance in preparing an appeal.

For all LTRH referrals, the UCC shall obtain a statement from the incarcerated individual, specific to acknowledging responsibility for the actions that resulted in their restrictive housing placement and what they would do differently in the future if faced with similar circumstances. While the incarcerated individual is strongly encouraged to do this as a way to share their individual perspective with the institutional classification committee, warden, and MDRT, the incarcerated individual may refuse to submit this accountability statement, see *LTRH Incarcerated Individual Accountability Statement* (Attachment G). Refusals shall be documented by the incarcerated individual or in an Incident Report authored by a NDCS team member. In all cases, the written statement or documentation of refusal shall be uploaded into the Documents section with the appropriate label. This accountability statement does not replace the above referenced appeal of the recommendation but may include other pertinent information the incarcerated individual wishes to provide.

- f. The identity of any confidential informants or the content of psychiatric, psychological and mental health reports will not be disclosed to the incarcerated individual.
- g. After the hearing, the incarcerated individual (and interpreter or NDCS representative, if applicable) may be asked to leave the hearing room while the UCC deliberates.

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- h. At the conclusion of the hearing, the incarcerated individual will be advised of the UCC recommendation.
- i. The UCC shall forward all documents reviewed at the hearing to the ICC/warden.

Tier 2 – ICC: The ICC shall review the UCC recommendation. Members of the ICC shall be documented in the LTRH Referral.

Tier 3 – Warden: The warden will make a recommendation to the MDRT, who will make the final decision. The warden shall be responsible for ensuring all required documents are included, accurate and thorough. The warden reserves the ability to remove incarcerated individuals assigned to Immediate Segregation from restrictive housing without referral to the MDRT.

Tier 4 – MDRT: The MDRT shall review all LTRH classifications. This review shall include, but not be limited to, an assessment of compliance with individualized transition and treatment plans and recommendations from the previous classification tiers.

1. Incarcerated individuals assigned to LTRH for 0 to 364 consecutive days shall receive a classification hearing at least every 90 days to assess demonstrated compliance with individualized transition and treatment plans and to assess the potential for promotion to a less restrictive setting based on compatibility with the safety of the incarcerated individual, others, and security of the facility. The process identified in IV.C. shall be used at each 90-day review.
2. Incarcerated individuals in restrictive housing for 365 consecutive days or longer shall be reviewed at least every 30 days by the MDRT. Additionally, the director must approve continued assignment to LTRH status in these particular cases. This review shall include, but not be limited to, an assessment of compliance with individualized Behavior/Programming Plans and Individual Treatment Plans and recommendations from the MDRT for changes to the individual plans to allow the incarcerated individual to safely transition to a less-restrictive housing setting.
3. MDRT reviews will include time served on immediate segregation status when calculating length of stay. For example, if an incarcerated individual is placed on IS on July 1, 2016 and subsequently approved for LTRH on July 28, 2016, the 90 day LTRH review will be conducted 90 days from the July 1st IS placement date, subsequently the 180 day LTRH review will be conducted 180 days from the July 1st IS placement date. This will remain the review schedule until the incarcerated individual has been removed from LTRH.
4. Following each review, the MDRT chair or designee shall document the hearing disposition and rationale in NICaMS. The restrictive housing program manager shall print and mail all completed LTRH Hearing Memos to the respective incarcerated individual. A copy of the LTRH Hearing Memo, with the date of printing and distribution shall be uploaded to NICaMS > Restrictive Housing Dashboard > Documents.
5. When an incarcerated individual has been assigned to LTRH for 180 consecutive days, the restrictive housing manager will send out the 180-day report, on the first


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of every month. The MDRT's decisions and information considered are available on NICaMS.

6. When an incarcerated individual is removed from LTRH status, a restrictive housing unit team member shall notify the facility central control center of the incarcerated individual's new cell assignment. A central control center team member shall update the cell assignment in the Corrections Tracking System (CTS/C-1) and a restrictive housing unit team member shall update the segregated status in NICaMS. Both updates shall be made within two hours or prior to the next scheduled facility count, whichever comes first.
7. MDRT decisions are classification actions and are therefore subject to the classification appeal process. Appeals of MDRT decisions will be made to the director/designee. Facility assignments are not a classification action and may not be appealed.
 - a. Within 15 calendar days after receipt of a classification decision, an incarcerated individual may file an appeal by giving a RH team member a *LTRH Appeal Form* (Attachment H).
 - b. The notice of appeal shall identify the decisions being appealed, the date of the decision, the date on which the incarcerated individual received a copy of the decision, and the reasons why the incarcerated individual contends the decision was incorrect.
 - c. Upon receipt of the LTRH Appeal form, a RH unit team member shall document the date and time of receipt on the LTRH Appeal form. A scanned copy of the LTRH form shall then be upload to [NICaMS > RH Dashboard > Documents > Document Category 'Appeal Form'](#). Following this, a unit team member shall note the date and time of document upload on the LTRH Appeal form. The original LTRH Appeal form shall be returned to the incarcerated individual. This shall be accomplished within three (3) working days.
 - d. There shall only be one appeal permitted for each MDRT decision.
 - e. If an incarcerated individual appeals a classification decision, the classification decision will be in effect while the appeal is pending.
 - f. Appeals shall be processed by the office of the director within 10 working days after receipt of the appeal request. All LTRH appeal responses shall be uploaded to [NICaMS > RH Dashboard > Documents > Document Category 'Appeal Form'](#) and the original shall be mailed to the incarcerated individual.


V. PROGRAMMING AND INCENTIVES

- A. It is in the best interest of all to provide restrictive housing incarcerated individuals with resources that will enable them to be better citizens within the facility and upon their return to the community. Incarcerated individuals assigned to restrictive housing for more than 30

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days, shall have access to non-clinical programs, organized activities or curriculum that addresses thinking and behavior as well as pro-social interaction.


- B. Program delivery formats for high security environments shall be created that allow program participation while ensuring the safety of participants and NDCS team members. This shall include the development of congregate classroom space where possible, use of security programming chairs, and in-cell programming.
- C. Opportunities for incarcerated individuals to learn and practice pro-social behaviors through cognitive programming shall be provided, with the opportunity to progress through incentivized step-down programs to lower security classifications, based on goal development and attainment, completion of required tasks and activities, and demonstrated positive behavior. (ACI-4B-31)
- D. Each incarcerated individual in LTRH shall have a Behavior/ Programming Plan (BPP) that shall be reviewed and updated during each scheduled restrictive housing UCC hearing. The BPP will outline to NDCS team members and incarcerated individuals the steps and criteria for incarcerated individuals to return to the general population or transition to another form of non-restrictive housing. It will include an incentive-based system that encourages pro-social behavior and program engagement.
- E. Incarcerated individuals will participate in discussions and planning of criteria and next steps for each transition opportunity and will help craft individualized goals and areas for improvement.
 - 1. In the event the incarcerated individual refuses to participate in the creation of the BPP, the incarcerated individual will be non-compliant until such time they participate in the development of their plan. Non-compliance with the BPP will result in the loss of all earned incentives and the loss of the ability to earn incentives. Efforts taken to gain the incarcerated individual's engagement shall be documented on the incarcerated individual's contact notes.
- F. Expectations for earning incentives identified on the BPP shall be clearly defined in reasonable increments. The BPP Incentive page on NICaMS shall be utilized to ensure consistency and as the method for tracking incentives.
 - 1. Approved incentives to be offered to the incarcerated individual are included in the BPP plan on NICaMS. For adult male incentives, see *Adult Incarcerated Individual Incentives* (Attachment I).
 - a. Additional incentives may be submitted by the warden to the restrictive housing internal workgroup for review/disposition.
 - 2. Incentives can be earned every seven days during the first eight weeks and every 14 days thereafter; occurring in conjunction with the incarcerated individual's BPP compliancy date.
 - 3. To earn incentives the incarcerated individual must be fully compliant with all sections of their BPP, to include all assigned programming. Alternative programming will not be accepted as a substitute as it relates to earning Tier 2 and Tier 3 incentives.

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- G. A RH unit team member will monitor behavior using the Behavior Baseline and note the progress towards goals and behavior in the LTRH Referral. The warden will review the information and recommend promotion to a less restrictive custody level as appropriate through the established MDRT review process.
- H. Efforts to engage incarcerated individuals who refuse to participate in programming shall be documented in contact notes, the NICaMS Non-Clinical Program Tracking Screen, and may include mental health referrals/intervention.
- I. Individuals assigned to restrictive housing shall have access to the Intentional Peer Support (IPS) specialist. This program shall remain in adherence with the IPS Program Standard Operating Procedures (SOP); maintained by the restrictive housing program manager.

VI. MENTAL HEALTH SERVICES

- A. Mental health services for LTRH incarcerated individuals shall be managed through a combination of requests for consultation made by the incarcerated individual or facility team member (in accordance with established procedures and protocols), and weekly cell-front visits by mental health providers.
- B. Individuals who have a current SMI diagnosis and are assigned to IS or LTRH will have their LOC monitored closely by a mental health professional. In the event that an individual is found to have a LOC indicative of a higher need level (i.e., LOC 3, 4, 5) they shall be immediately transferred to an acute or subacute mental health unit or an SNF.
 - 1. Monthly one-on-one out-of-cell therapeutic assessment will be provided to LTRH incarcerated individuals with a diagnosis of serious mental illness. These assessments shall include, but not be limited to, the update of the individual's LOC. (ACI-4B-04)
- C. Force shall not be used to bring an incarcerated individual out to see a mental health provider unless there is a clear life-threatening issue or serious decompensation is noted.
- D. Dependent on the individual's mental health diagnosis and needs, a Restrictive Housing Individual Treatment Plan may be developed for individuals in LTRH.
 - 1. The Restrictive Housing Individual Treatment Plan shall be developed by a clinical team member and is intended to work in conjunction with the Behavior/Programming Plan.
 - 2. Incarcerated individuals will participate in the development of the Restrictive Housing Individual Treatment Plan.
 - 3. At a minimum, the Restrictive Housing Individual Treatment Plan shall identify problem areas, goals, interventions and coping strategies.
 - 4. The Restrictive Housing Individual Treatment Plan shall be reviewed on a regular basis determined by a clinical team member to determine progress and effectiveness.

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5. The Restrictive Housing Individual Treatment Plan is considered a clinical and confidential document and shall not routinely be shared with a non-clinical team member unless deemed necessary by the clinician.

E. Clinical treatment must be delivered by licensed clinicians and is directly related to a person’s behavioral health diagnosis and recovery.

F. Risk assessments, and the results of mental health testing, when appropriate, shall be used to guide coordinated interventions, assignments to programming, and other applicable resources.

VII. ASSIGNMENT OF LIVING LOCATION

A. Using the criteria defined below, incarcerated individuals on IS status may have a cellmate.


B. Prior to the assignment to a cell in restrictive housing with a cellmate, the restrictive housing unit manager will confer with the unit manager from the housing unit to which that the incarcerated individual was previously assigned. In the absence of the respective unit managers, unit case managers from the respective housing units and/or the shift supervisor will confer. Items that will be reviewed and considered when conferring include, but are not limited to:

1. History of assaultive behavior (includes behavior in the facility and/or community)
2. Reason for Restrictive Housing status
3. Central Monitoring
4. PREA Score (aggression/vulnerability)
5. Security Threat Group affiliation
6. Status (i.e., protective management, mission specific housing, general population) and housing assignment immediately preceding current restrictive housing assignment.

C. Based on the above noted review, the restrictive housing unit manager or, if applicable, a restrictive housing unit case manager or shift supervisor will complete the *Restrictive Housing Assignment of Living Location* form (Attachment J) and determine the most appropriate housing location.

D. Incarcerated individuals on IS status pending a review for possible placement on Protective Custody may only be assigned to a cell with another incarcerated individual on IS status pending a review for possible placement on Protective Custody. Such assignments will be determined based on a review of the reason each incarcerated individual has been assigned to restrictive housing in addition to the items identified in Section B.1.-4..

E. The words “most appropriate housing location for incarcerated individuals assigned to a restrictive housing status” shall mean a housing placement, as of the time of the cell assignment is made, which provides each cellmate with reasonable safety from assault,

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taking into consideration all information available to the decision-makers regarding each proposed cellmate.

Reasonable safety is not a guarantee of absolute safety, and the words “most appropriate housing location for incarcerated individuals assigned to a restrictive housing status” shall not be understood to require a guarantee of absolute safety.

- F. The decision-makers may consider other valid goals in making cell assignments so long as the cell assignment provides each cellmate with reasonable safety from assault. If a decision is made to assign more than one person to a cell, the persons making such assignment shall state in writing why, at the time of the cell assignment, the cell assignment provides each cellmate with reasonable safety from assault.


The statement of reasons may be a short and concise summary of the reasons for the conclusion that the cell assignment provides each incarcerated individual with reasonable safety from assault. Such a statement shall be made on the *Restrictive Housing Assignment of Living Location Form* (Attachment J) and the decision shall be recorded under the heading “Comments”.

- G. At a minimum, pursuant to the procedures included above, two team members shall confer to determine the most appropriate housing location for incarcerated individuals assigned to restrictive housing status when said assignment involves being assigned to a cell with another incarcerated individual.

- H. A NDCS team member will communicate with incarcerated individuals in restrictive housing assigned to a cell with another incarcerated individual at a minimum of once a day to ensure potential compatibility issues are addressed. This conversation will be documented on the Individual Segregation Log Sheet, maintained for each incarcerated individual.

After 30 consecutive days assigned to a cell with the same cellmate a team member will meet with each incarcerated individual individually to ensure compatibility issues are reviewed. Both incarcerated individuals shall write a statement regarding their current living assignment. This shall be completed every 30 consecutive days two incarcerated individuals are assigned to the same cell. These statements shall be uploaded to the NICaMS Restrictive Housing section under the documents tab for each incarcerated individual.

- 1. If either incarcerated individual refuses to write a statement, a team member shall complete an Incident Report regarding their conversation with the incarcerated individual regarding their cell assignment. The Incident Report will be uploaded to the NICaMS Restrictive Housing section under the document tab for the incarcerated individual.
- I. No incarcerated individual will remain in the same restrictive housing cell for longer than six months. The incarcerated individual shall be moved to a different gallery if at all possible.

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VIII. RESTRICTIVE HOUSING STATUS REVIEWS

Review of incarcerated individuals' restrictive housing status shall occur regularly.


- A. The Unit Classification Committee shall conduct formal reviews of the status of each Restrictive Housing incarcerated individual every seven days until 60 days after the incarcerated individual has been placed in Restrictive Housing. (ACI-4B-08)
- B. The Unit Classification Committee shall conduct formal reviews of the status of each Restrictive Housing incarcerated individual every two weeks after 60 continuous days of Restrictive Housing. (ACI-4B-08)
- C. Restrictive Housing incarcerated individuals shall be given notice of the Restrictive Housing Status Review and have an opportunity to appear before the Unit Classification Committee once a month at the Restrictive Housing Status Review.
- D. A NDCS team member will evaluate each LTRH incarcerated individual's compliance with their Behavior/Programming Plan at all scheduled restrictive housing status reviews.
- E. The Unit Classification Committee shall make a written record of the Restrictive Housing Status Review.
- F. The written record of the Restrictive Housing Status Review shall be submitted to the warden/designee.
- G. The warden/designee shall review the record of the Restrictive Housing Status Review for final approval or return it to the Unit Classification Committee for further action.

IX. GENERAL CONDITIONS OF RESTRICTIVE HOUSING

A. Services

Incarcerated individuals are placed in restrictive housing in response to behavior that creates a risk to the incarcerated individual, others, or the security of the facility or as a result of a classification action. Restrictive housing incarcerated individuals shall receive the following services and programs unless documented security and safety considerations dictate otherwise: (ACI-4B-15, ACI-4B-19)

1. Prescribed medication and access to health care by a qualified health care official. (ACI-4B-14)
2. Clothing that is not degrading.
3. Access to authorized personal items for use in their cells.
4. Substantially the same meals served to the general population. (ACI-4B-18)
5. The opportunity to shave and shower at least three times per week. (ACI-4B-16)
6. The issue and exchange of clothing, bedding and linen on the same basis as incarcerated individuals in the general population. (ACI-4B-17)

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7. Access to laundry services on the same basis as incarcerated individuals in the general population. (ACI-4B-17)
8. Access to hair care services on substantially the same basis as incarcerated individuals in the general population. (ACI-4B-17)
9. The same opportunity to write and receive letters as is available to the general population. Access to kiosks will not be authorized. (ACI-4B-20)
10. Opportunities to visit. (ACI-4B-21)
11. Telephone privileges as defined in Policy 205.03 *Inmate Calling System*. (ACI-4B-25)
12. Access to legal/reading materials. (ACI-4B-22, ACI-4B-23)
13. A minimum of one hour per day, five days per week, of exercise outside their cells. (ACI-4B-24)
14. Orientation materials and/or translations in their own language. When a literacy problem exists, a NDCS team member assists the incarcerated individual in understanding the material. Completion of orientation is documented by a statement signed and dated by the incarcerated individual. (ACI-4B-27)

B. Conditions of Restrictive Housing


Deviations from the *Conditions of Restrictive Housing* (Attachment K) must be approved by the director/designee.

C. Property

Incarcerated individuals housed in restrictive housing shall be permitted to possess property as described in *Restrictive Housing Property Provisions* (Attachment L).

D. General Provisions Regarding Limitations on Services and Programs

1. Exceptions to the services and programs for restrictive housing incarcerated individuals must be made by the shift supervisor or the unit manager/designee and be based on a finding that the exceptions are necessary for the safety and security of the incarcerated individual, other incarcerated individuals, NDCS team member or the unit.
2. The RH team member shall record the exception and the reason for the exception in the permanent unit log.
3. When an incarcerated individual in restrictive housing is deprived of any right or privilege, the RH team member shall prepare a written report. This report shall be sent to the security administrator of the facility and shall be kept in the incarcerated individual's facility file. (ACI-4B-19)

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E. Provisions and Limitations on Showers and Exercise

1. Except in emergencies, the director/designee will not curtail shower and exercise periods to fewer than three times per week for restrictive housing incarcerated individuals.
2. Exceptions shall be granted for a definite time period and shall be in response to facility or unit special needs and contingencies.
3. In facilities where restrictive housing exercise yards exist outside and where cover is not provided to mitigate the inclement weather, appropriate weather-related equipment and attire should be made available to the incarcerated individuals who want to take advantage of their authorized exercise time.

F. Refusal to Shower or Exercise


1. The refusal to shower and exercise shall be documented in the Restrictive Housing Unit permanent log.
2. An incarcerated individual will be deemed to have refused to shower or exercise by not complying with security procedures, or threatening actions that present an immediate danger to the safety of NDCS team members or other incarcerated individuals. The action(s) of the incarcerated individual shall be appropriately documented.
3. After consultation with the medical department, the incarcerated individual may be required to shower.

G. Non-Contact Visitation Provisions

1. Visiting schedules for incarcerated individuals designated for non-contact visits shall be on an appointment basis according to the visiting schedule authorized by the warden.
2. Non-contact visits shall not last longer than one hour per visit.
3. The shift supervisor may alter the visitation time and number of visitors to ensure proper order and security.

H. Health Care

1. All medical or health care visits shall be recorded in the incarcerated individual's health record and in the Restrictive Housing Unit permanent log.
2. An incarcerated individual's refusal of medical care shall be documented in the incarcerated individual health record and in the Restrictive Housing Unit permanent log.

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I. Alternative Meal Service


Food shall not be withheld, nor the standard menu varied, as a disciplinary sanction for an incarcerated individual. If an incarcerated individual uses food or food service equipment in a manner hazardous to self, NDCS team members or incarcerated individuals, or creates a health/sanitation hazard, alternative meal service equipment may be utilized. Alternative meal service equipment shall consist of a silicone meal tray and a paperboard eating utensil (no drinking cups). The food served to the incarcerated individual(s) shall consist of the same food items served to the remainder of the population including applicable medical and religious diet orders. Authorization for use of the alternative meal service equipment shall be approved by the deputy warden or higher authority, shall be on an individual basis and shall be based on health and safety considerations only. A Restriction of Privileges/Rights form will be completed in accordance with established procedures. This restriction will be reviewed at a minimum of once a week by a NDCS team member designated by the warden but may be reviewed more frequently. The restriction shall not exceed seven days unless it is extended with the review of the deputy warden or higher authority and the approval of a medical team member. The restriction may only be removed by the authority of the deputy warden or higher authority and shall be based on the assessment of safety and health risks. Refer to *Refusal to Return Alternative Meal Service Equipment Protocol* (Attachment M) regarding the protocol to be followed in the event the incarcerated individual refuses to return the alternative meal service equipment and/or misuses food items. (ACI-4B-18, ACI-5C-08)

J. Disruptive Hygiene Behavior

Disruptive hygiene behavior is the intentional smearing of any bodily fluid/substance, including but not limited to feces and urine, on one's person or anywhere in the cell. See *Disruptive Hygiene Behavior Response Protocol* (Attachment N).

K. Management of Restrictive Housing Units

1. A shift supervisor shall visit the restrictive housing unit(s) at least once every day. (ACI-4B-12)
2. A qualified health care official shall visit the restrictive housing unit at least once every day. (ACI-4B-12)
3. Program team members shall visit the restrictive housing unit(s) upon request.
4. Each facility shall establish policies on the selection criteria, supervision and rotation of the NDCS team members who work on a regular and daily contact basis with incarcerated individuals in the restrictive housing unit(s). (ACI-4B-13)
5. In facilities with small, short-term restrictive housing units and no specified restrictive housing posts, designated unit and custody team members will receive special training prior to providing coverage in the unit.
6. All restrictive housing incarcerated individuals shall be personally observed by a correctional officer twice per hour, but no more than 40 minutes apart, on an irregular schedule. Incarcerated individuals who are violent or mentally disordered or who demonstrate unusual or bizarre behavior receive more frequent

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observation; suicidal incarcerated individuals are under continuous, visual observation. Observation shall be documented on a log and a qualified mental health professional will determine the type of observation. (ACI-4B-11)

7. A qualified mental health professional shall conduct a personal interview of any incarcerated individual who is in restrictive housing for more than 30 days and prepare a written report. If restrictive housing continues for an extended period, a mental health assessment of the restrictive housing incarcerated individual must be done at least every three months. (ACI-4A-10)
8. In addition to any other provisions provided in this policy, the Institutional Classification Committee or facility Multi-Disciplinary Team (MDT) will review the restrictive housing status of incarcerated individuals who are pregnant, or are diagnosed with a serious mental illness a minimum of once per month to assess the potential for promotion to a less restrictive setting based on compatibility with the safety of the incarcerated individual, others, and security of the facility.


L. Space availability

Space availability in restrictive housing may necessitate the early release of incarcerated individuals. In such cases, the warden shall determine which incarcerated individuals on IS status or LTRH status will be released by giving priority to those incarcerated individuals who present the lowest risk to safety and security. Release of LTRH incarcerated individuals requires the approval of the MDRT in accordance with this policy. Nothing in this policy precludes the early review of an incarcerated individual's restrictive housing status.

X. DISCHARGE AND REENTRY PLANNING

See *Discharge and Review Planning Template* (Attachment O)

- A. Having no one transition from restrictive housing to the community is a targeted outcome for the agency. (ACI-4B-29)
- B. If an incarcerated individual is already assigned to or placed in restrictive housing at 120 days prior to their scheduled release date, the MDRT Chair shall initiate contact with the facility warden to discuss appropriate steps to assess risk and conduct release planning consistent with safety within the facility and in the community. (Neb. Rev. Stat. §83-1,107 (4), §83-1,107 (5)(c)) (ACI-4B-09)
 1. This notification shall also be provided electronically to the reentry program manager and director of social worker copied on the notification.
 2. Strategic reentry and discharge protocols shall be implemented prior to release to the community. (Neb. Rev. Stat. §83-1,107 (4))
 - a. Whenever possible, incarcerated individuals will be transitioned from restrictive housing to general population, mission-specific housing, and behavioral focused housing prior to release.

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- b. Transition general population housing, designed to help incarcerated individuals transition from restrictive housing, based on individualized risk and needs assessments shall be used to prepare individuals for return to a less restrictive and more interactive security level.
 - 1) Transfer to transition housing will depend on the individual's level of readiness, safety and security considerations and assessments, reviews, and decisions by the MDRT.
 - 2) The standard for risk shall be measured against the fact that the incarcerated individual shall be returning to the community.

- C. All discharges from restrictive housing shall involve ongoing coordinated discharge and reentry planning efforts by Multi-Disciplinary Teams (MDT) consisting of a NDCS team member from the following disciplines: facility unit management and/or administrative team members, behavioral health, social work, reentry and, if appropriate, parole and probation to develop specialized reentry plans for any incarcerated individual currently in restrictive housing who is within 157 days from discharge/parole and has been in restrictive housing for 45 consecutive days. At a minimum, the restrictive housing discharge and reentry planning MDT shall meet once per month (in person or via video or teleconference); however, as discharge and reentry planning should start as soon as possible for incarcerated individuals within 150 days of their tentative release date who are placed in restrictive housing and as the circumstances of these individuals are subject to change, more frequent meetings may be required. The planning shall be consistent with safety concerns both within the facility and in the community. Discharge and reentry planning for all individuals meeting this criterion shall be documented in memorandum format. A separate memorandum shall be completed for each incarcerated individual being reviewed and document discussion only from one meeting. Memorandums shall be electronically maintained using the following file name format:


Last name,first initial.incarcerated individualnumber.meetingdate
 (example: Doe,J.12345.2016.11.09).

Do not put the # before the incarcerated individual number.

When an incarcerated individual's plans are discussed at multiple meetings, there should be a separate memorandum for each meeting. Completed memorandums detailing the MDT review shall be e-mailed within 10 days of the MDT meeting to the following distribution.

- MDRT chair
- Agency restrictive housing program manager
- Facility warden
- Facility deputy warden
- Designated facility reentry coordinator
- Other facility team members deemed appropriate by the warden/designee

- D. Restrictive housing incarcerated individuals in the AMHU in the 180-day period before their release that will remain in the AMHU at the time of their discharge, will also be reviewed by the NDCS Discharge Review Team.

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E. The facility warden shall designate a team member to ensure monitoring and reporting of discharge and reentry planning is being done consistent with this policy. This process shall be clearly articulated in written facility procedures.

XI. DATA COLLECTION AND REPORTING

NDCS shall provide regular reporting on the use of restrictive housing and shall issue an annual report to the governor and the clerk of the legislature pursuant to Neb. Rev. Stat. §83-4,114 and Neb. Rev. Stat. §83-173.02.

XII. NDCS TEAM MEMBER TRAINING

A. All NDCS facilities with restrictive housing shall ensure that all regularly assigned unit team member shall receive special training in working with the population housed in the unit. At a minimum, refresher training will be required on an annual basis. See *Restrictive Housing Training Requirements* (Attachment P).

B. NDCS Pre-Service training shall include, but not be limited to, basic communication techniques, introduction to motivational interviewing, working with mentally ill and other vulnerable populations, working with incarcerated individuals with behavioral disorders, cognitive behavioral interventions, and trauma training, as well as core correctional practices, crisis de-escalation, and intervention. This training shall be required for all team members interacting directly with incarcerated individuals.

REFERENCE

I. STATUTORY REFERENCE AND OTHER AUTHORITY

A. Neb. Rev. Stat. §44-792, §71-907, §83-170, §83-173.03, §83-180, §83-1,107(4), §83-1,107(5)(c), §83-4,114, §83-173.03, §83-4,125

B. Title 72 Neb. Admin. Code, ch. 1

II. NDCS POLICIES

A. Policy 115.05 *Health Screenings, Examinations, Appraisals & Reviews*

B. Policy 115.22 *Mental Health Levels of Care*

C. Policy 205.03 *Inmate Calling System*


D. Policy 210.03 *Mission Specific Housing*

III. ATTACHMENTS

A. Holding Event Flowchart

B. Immediate Segregation Flowchart

C. Immediate Segregation Incarcerated Individual Statement

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- D. IS Appeal Form
 - E. Longer-Term Restrictive Housing Flowchart
 - F. Restrictive Housing Individual Treatment Plan
 - G. LTRH Incarcerated Individual Accountability Statement
 - H. LTRH Appeal Form
 - I. Adult Incarcerated Individual Incentives
 - J. Restrictive Housing Assignment of Living Location Form
 - K. Conditions of Restrictive Housing
 - L. Restrictive Housing Property Provisions
 - M. Refusal to Return Alternative Meal Service Equipment Protocol
 - N. Disruptive Hygiene Behavior Response Protocol
 - O. Discharge and Review Planning Template
 - P. Restrictive Housing Training Requirements
- IV. AMERICAN CORRECTIONAL ASSOCIATION (ACA)
- A. Expected Practices for Adult Correctional Institutions (ACI) (5th edition): 5-ACI-4B-01, 5-ACI-4B-03, 5-ACI-4B-04, 5-ACI-4B-07, 5-ACI-4B-08, 5-ACI-4B-09, 5-ACI-4B-11, 5-ACI-4B-12, 5-ACI-4B-13, 5-ACI-4B-15, 5-ACI-4B-16, 5-ACI-4B-18, 5-ACI-4B-19, 5-ACI-4B-20, 5-ACI-4B-21, 5-ACI-4B-22, 5-ACI-4B-23, 5-ACI-4B-25, 5-ACI-4B-26, 5-ACI-4B-27, 5-ACI-4B-28, 5-ACI-4B-29, 5-ACI-4B-32, 5-ACI-4B-33, 5-ACI-4B-34, 5-ACI-5C-08, 5-ACI-5E-09