

Restrictive/Segregated Housing Principles

The following concepts represent the core principles of a modernized system of administrative segregation. This statement of principles is variously based upon: (1) the U. S. Department of Justice Final Report and Recommendations Concerning the Use of Restrictive Housing (January 2016); (2) the Yale Law School Restrictive Housing Recommendations to the ACA (January 19, 2016); (3) the American Bar Association's Standards on the Treatment of Prisoners, Standards 23-2.6 thru 23-2.9, and Standard 23-3.8 (February 2010); and (4) the Mississippi Department of Corrections Regulations on Administrative Segregation Long-term Status (effective April 2013).

[According to **Neb. Rev. Stat.** §83-170(13), restrictive housing means conditions of confinement that provide limited contact with other offenders, strictly controlled movement while out of cell, and out-of-cell time of less than twenty-four hours per week.]

- A clear statement that it is the policy of the Department that: (1) placement of an inmate in segregation should always be the alternative of last resort; and (2) the segregation of inmates should be for the briefest term and under the least restrictive conditions practicable and consistent with the rationale for placement and with the progress achieved by the inmate.
- In order to avoid decisions that place inmates in segregation arbitrarily, rules should state strict criteria for assigning inmates to segregated status. These criteria would allow inmates to be placed in administrative segregation *only for*: (1) a serious act of violent behavior (i.e., assaults or attempted assaults) directed at correctional staff and/or at other inmates; (2) a recent escape or attempted escape from secure custody; (3) threats or actions of violence that are likely to destabilize the institutional 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 inmate either has engaged in dangerous or threatening behavior directed by the security threat group, or directs the dangerous or threatening behavior of others; or (5) the incitement or threats to incite group disturbances in a correctional facility. (these criteria developed from ABA Standard 23-2.7) In addition, inmates whose presence in the general population would create “a significant risk of physical harm to staff and/or other inmates” may be assigned to segregated status, but only with the personal action and approval of the Director.
- Every decision to place an inmate on segregated status shall be supported by adequate documentation specifically stating the reasons for the placement on

segregated status, and shall cite which of the five criteria enumerated above is being invoked to authorize the placement on segregated status.

- All assessments of the risk associated with allowing an inmate to continue to be assigned to the general population must be based upon a risk-assessment tool that is evidence based, and validated by other correctional departments and/or experts.
- Within thirty days of the inmate's being placed on segregated status, the Department shall develop an individualized plan for the inmate's transition to a less restrictive placement and ultimate release from segregation and into general population. These individualized plans should be developed by the facility's behavioral health staff. These individualized plans should include assessments of the inmate's needs, a strategy for correctional staff to assist the inmate in meeting those needs, and clearly stated benchmarks to make accurate measurements of the inmate's progress toward fewer restrictions and lower levels of custody, and his/her eventual release from segregation. Correctional authorities should provide the plan or a summary of the plan to the prisoner, and explain it, so that the prisoner can understand the plan's expectations.
- Inmates may be held on Immediate/Investigative Segregation status (i.e., inmates segregated while there is an ongoing investigation) for no longer than 15 days, except that Immediate Segregation status may be increased by 15 additional days to a limit of never more than 30 days, with the personal approval of the Director.
- All assignments to long-term Administrative Segregation shall require a recommendation to that effect by the facility staff, and must be reviewed and approved within no more than five days by the central office. (The term "long-term Administrative Segregation" means Administrative Segregation that is expected to extend, or does extend, for a period of time exceeding 30 days.) There should be a requirement that the cases of all inmates who are placed on restrictive housing status (IS and AS) shall be reviewed by the facility staff every seven days, and that those cases shall also be reviewed by staff in the central office every 30 days. All of the cases where an inmate has been retained on Administrative Segregation status for one year or more must thereafter be reviewed by the Director personally every thirty days, and the decision to continue that inmate on Administrative Segregation must be made personally by the Director, based upon those thirty day reviews.

- The minimum out-of-cell time for all inmates on restrictive housing status (IS and AS) should be 3 hours per day, 7 days per week (the calculation of these 3 hours per day will include time spent showering out-of-cell, in the yard, at programming, making telephone calls, and with visitors). There should also be a program that adds even more out-of-cell time per day as an intermediate or transitional level for those inmates who have continued in restrictive housing status for more than 30 days. There should also be an incentive program for awarding more out-of-cell time on a day-by-day basis for inmates on restrictive housing status. (All of this should be feasible, if, in fact, there is a significant reduction in the number of inmates being placed on segregated status in the system.)
- Specialized programming must be offered to inmates in segregated status, including “gang-membership deprogramming” for those inmates who have been placed on segregated status due to their affiliation with a security threat group.
- No inmate diagnosed with a serious mental illness should be placed in long-term segregated housing. An inmate placed in segregated housing shall be examined by a qualified mental health professional within seven days of his or her placement, and shall be again examined by a qualified mental health professional every 30 days of his or her placement in segregated housing, so long as the inmate remains in that placement. The examinations that are to take place every 30 days shall be in a setting in which security staff cannot overhear the conversation between the mental health professional and the inmate. In addition, a qualified mental health professional shall observe and speak to every inmate in the segregated housing unit on a weekly basis. If any inmate placed in segregated housing is determined to be suffering from a serious mental illness at any point after his/her placement in segregation, then that inmate shall be immediately transferred to a mental health unit, or a secure mental health unit to receive needed treatment. In any case where an inmate who has been diagnosed as suffering from any mental disorder shows evidence of decompensation while in a segregated setting, that inmate shall be transferred to a mental health unit, or a secure mental health unit.
- The placement, or expected placement, of any inmate in segregated housing for a period of time exceeding thirty days shall only happen based upon an individualized determination, by a preponderance of the evidence, that the substantive criteria allowing for the placement of inmates in administrative

segregation have been met. In making that determination, the Department shall provide the procedural protections described in Standard 23-2.9 of the ABA Standards on Treatment of Prisoners. (Please see attachment)

- Except in those cases where there are compelling circumstances, any inmate who would otherwise be released directly to the community from long-term segregated housing should be placed in a less restrictive setting for the final months of his/her confinement.
- Juvenile inmates should not be placed on segregated status except in cases of a serious and immediate risk of harm to others, and then should be kept in a segregated status only for a very short period of time.
- Specialized training should be provided for all of the staff assigned to work in segregation housing units.