

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES  
NOTICE OF **SECOND** PUBLIC HEARING

**December 27, 2021**

10:00 a.m. Central Time

Nebraska Department of Correctional Services (NDCS) Central Office  
801 West Prospector Place, Building 1, Lincoln, Nebraska 68509  
Conference Room Lower Level

The purpose of this hearing is to receive additional comments on proposed changes to Title 72, Chapter 1 of the Nebraska Administrative Code (NAC) – *Restrictive Housing*. This Chapter establishes regulations surrounding the use of restrictive housing within NDCS to ensure such housing will be utilized in the least restrictive manner for the least amount of time consistent with the safety and security of staff, inmates and the facility. The proposed changes remove unnecessary language, address restrictions on the use of restrictive housing for vulnerable populations as prescribed under LB686 (2019), and update terminology. There is no expected fiscal impact on state agencies, political subdivisions, or persons being regulated.

Authority for these regulations is found in Neb. Rev. Stat. § 83-173.03(2) and Neb. Rev. Stat. § 84-907.

All interested persons are invited to attend and make oral or written comments at the hearing. Interested persons may also submit written comments, which will be made part of the record if received prior to the hearing, to: NDCS General Counsel, PO Box 94661, Lincoln, NE 68509-4661 or [ryan.gilbride@nebraska.gov](mailto:ryan.gilbride@nebraska.gov).

A copy of the proposed changes is available from the office of the Secretary of State, Regulations/Licensing Division, Room 1305, State Capitol, Lincoln, Nebraska 68509 and online at <http://www.sos.ne.gov>.

If auxiliary aids or reasonable accommodations are needed to participate in the hearing please contact Ryan Gilbride at (402) 479-5735 or email [ryan.gilbride@nebraska.gov](mailto:ryan.gilbride@nebraska.gov) to request such accommodation at least 14 days prior to the hearing.

## FISCAL IMPACT STATEMENT

|                              |                             |
|------------------------------|-----------------------------|
| Agency: NDCS                 |                             |
| Title: Title 72              | Prepared by: Laura Strimple |
| Chapter: Chapter 1           | Date prepared: 7/15/2021    |
| Subject: Restrictive Housing | Telephone: 402-479-5713     |

Type of Fiscal Impact:

|                   | State Agency | Political Sub. | Regulated Public |
|-------------------|--------------|----------------|------------------|
| No Fiscal Impact  | (X)          | (X)            | (X)              |
| Increased Costs   | ( )          | ( )            | ( )              |
| Decreased Costs   | ( )          | ( )            | ( )              |
| Increased Revenue | ( )          | ( )            | ( )              |
| Decreased Revenue | ( )          | ( )            | ( )              |
| Indeterminable    | ( )          | ( )            | ( )              |

Provide an Estimated Cost & a Description of Impact:

State Agency:

Political  
Subdivision:

Regulated  
Public:

If indeterminable, explain why:

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### TITLE 72- NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES CHAPTER 1- RESTRICTIVE HOUSING

001. PURPOSE. To establish policies surrounding the use of restrictive housing within the Nebraska Department of Correctional Services (NDCS) to ensure that restrictive housing will be utilized in the least restrictive manner for the least amount of time consistent with the safety and security of staff, inmates and the facility. Placement of an inmate in restrictive housing will be an alternative of last resort. These policies shall:

001.01 Establish specific levels of confinement outside of general population, including immediate segregation housing, longer-term restrictive housing, and secure mental health housing;

001.02 Define behaviors, conditions, and mental/behavioral health statuses whereby an inmate may be placed in each confinement level;

001.03 Define and mandate processes and procedures for making these determinations for each ~~level of confinement~~ level; and

001.04 Describe and mandate individualized transition plans for promotion to less restrictive housing assignments pursuant to Neb. Rev. Stat. 83-173.03. All transition plans shall be developed with the active participation of the inmate. This process shall take into account the results of assessments that identify risks and needs to be addressed. (~~Neb. Rev. Stat. 83-173.03~~)

001.05 ~~Additional materials not inconsistent with these rules.~~ The Department may issue policies, procedures policy directives, guidance documents, operational memoranda, administrative regulations, forms, and tools to guide and limit the use of restrictive housing, consistent with the promulgated rules and regulations. All policies and procedures ~~policy directives, guidance documents, operational memoranda, and administrative regulations~~ related to restrictive housing shall be shared with the Office of Public Counsel Deputy Ombudsman for Corrections and the Inspector General for the Nebraska Correctional System and shall be available to the legislature upon request. Policies may Documents ~~will~~ also be made available to the public unless such availability would create a security risk.

#### 002. GLOSSARY. DEFINITIONS

002.01. ACUTE MENTAL HEALTH UNIT (AMHU). A unit that provides controlled and highly structured housing for individuals in need of clinical mental health treatment 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 or ability to function effectively in other housing settings.

002.02 BEHAVIOR/PROGRAMMING PLAN. A document with a standard format used to identify desired behavior changes and programming opportunities offered to facilitate those behavioral changes.

002.03 CENTRAL OFFICE MULTIDISCIPLINARY REVIEW TEAM (MDRT). This team is led by the Deputy Director - Prisons of Institutions (Chair), with input from the following representatives: a behavioral health clinician the Behavioral Health Administrator, a leader from the Intelligence/Investigations Unit and a representative from classification/programs. a representative from the Classification Unit, and a representative from the research division programs unit. Others members may be added at the discretion of the Chair or the Director.

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002.04 CHRONIC CARE MENTAL HEALTH UNIT (CCMHU). A unit that provides a controlled and structured alternative to restrictive housing for individuals in need of residential mental health treatment due to chronic and unstable mental illness or developmental disabilities or traumatic brain injuries that interfere with their safety or ability to function effectively in other housing settings.

~~002.05 GENERAL POPULATION~~. All inmate housing areas that allow out-of-cell movement without the use of restraints, a minimum of six (6) hours per day of out-of-cell time, and regular access to programming areas outside of the living unit.

002.06-5 IMMEDIATE SEGREGATION. A short-term restrictive housing assignment of not more than 30 days in response to behavior that creates a risk to the inmate, others, or the security of the institution. Immediate Segregation 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 time frame require approval of the Director or designee.

002.07-6 INDIVIDUAL TREATMENT PLAN. A document used by mental health professionals to establish a patient's mental health treatment plan.

002.087 LONGER-TERM RESTRICTIVE HOUSING. A classification-based restrictive housing assignment of over 30 days. Longer-term Restrictive Housing (LTRH) is used as a behavior management intervention for inmates whose behavior continues to pose a risk to the safety of themselves or others and includes inmate participation in the development of a plan for transition back to general population or mission based specific housing.

~~002.08 MENTAL ILLNESS / MENTALLY ILL~~. Presence of a psychiatric disorder that involves a severe or substantial impairment of a person's thought processes, sensory input, mood balance, memory, or ability to reason which substantially interferes with such person's ability to meet the ordinary demands of living or interferes with the safety or well-being of others. (Neb. Rev. Stat. 71-907)

002.09-8 MISSION SPECIFIC HOUSING. 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 inmates with common interests and challenges, to reduce behaviors that otherwise might lead to restrictive housing and provide risk- and needs-responsive options to facilitate transitions from restrictive housing to the general population.

~~002.10~~ 9 PROTECTIVE CUSTODY (PC). The status of an inmate who is housed in a safe location to reduce the risk of harm by others while having privileges similar to general population housing. It is used to meet the needs of inmates who cannot be safely housed in other general population units, with the goal of helping reduce the Department's use of restrictive housing.

~~002.11~~ 10 PROTECTIVE MANAGEMENT UNIT (PM). Units used to house inmates 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, access to work, and recreation, etc.

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002.12 RESTRICTIVE HOUSING. ~~Conditions of confinement that provide limited contact with other inmates, strictly controlled movement while out of cell, and out of cell time less than 24 hours per week as defined by Neb. Rev. Stat. 83-170.~~

002.12 SECURE MENTAL HEALTH HOUSING (SMH). ~~Units used to house inmates with serious mental illness who present a high risk to others or to self and who require residential mental health treatment.~~

002.13 SERIOUS MENTAL ILLNESS. ~~Any mental health condition that current medical science affirms is caused by a biological disorder of the brain and that substantially limits the life activities of the person with the serious mental illness. Serious mental illness includes, but is not limited to (i) schizophrenia, (ii) schizoaffective disorder, (iii) delusional disorder, (iv) bipolar affective disorder, (v) major depression, and (vi) obsessive compulsive disorder. as defined by Neb. Rev. Stat. 44-792.~~

002.14 SOLITARY CONFINEMENT. ~~The A status of confinement of an inmate in an individual cell with solid, soundproof doors and which deprives the inmate of all visual and auditory contact with other persons as defined by Neb. Rev. Stat. 83-170 (14). The Nebraska Department of Correctional Services does not utilize solitary confinement.~~

002.15 VULNERABLE POPULATION. ~~A n population of inmates as defined by Neb. Rev. Stat. 83-173.03 (04).~~

#### 003. STRATEGIES TO REDUCE USE AND DURATION OF RESTRICTIVE HOUSING.

Core strategies to reduce use and duration of restrictive housing within the Department are listed below:

003.01 An inmate who is a member of a vulnerable population shall not be placed in longer-term restrictive housing. An inmate who is a member of a vulnerable population may be placed on immediate segregation to protect himself or herself, staff, other inmates, or who are pending classification, in line with the least restrictive framework.

003.02 Reduction in the use and duration of restrictive housing shall be accomplished by managing behavior through programming, initiatives, incentives, and mission specific housing, rather than relying primarily on sanctions.

003.03 Placements in restrictive housing shall be based on demonstrated risk to others, risks from others, or risks to safety and security. Inmates who enter restrictive housing settings must be transferred to the least restrictive environment that can safely support their needs as soon as possible. The inmate's behavior while in restrictive housing will be taken into account when determining less restrictive housing options. The rationale for placement into restrictive housing shall be documented at the time of initial placement and must be based upon one or more of criteria listed below:

003.03(A) A serious act of violent behavior (i.e., assaults or attempted assaults) directed at correctional staff and/or at other inmates;

003.03(B) A recent escape or attempted escape from secure custody;

003.03(C) 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;

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003.03(D) 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;

003.03(E) The incitement or threats to incite group disturbances in a correctional facility; and

003.03(F) Inmates whose presence in the general population would create a significant risk of physical harm to staff, themselves and/or other inmates.

003.04 Immediate segregation shall be a short-term (30 days or less) restrictive housing assignment utilized to maintain safety and security while investigations are completed, risk and needs assessments are conducted, and appropriate housing is identified.

003.05 Longer-term restrictive housing shall be a classification assignment used primarily as a behavior management intervention with programming targeted to problem-specific needs. Inmates in longer-term restrictive housing shall participate in the development of individualized transition plans back to general population or mission based housing.

~~003.05 Individuals with serious mental illness who present a high risk to others or to self and require residential mental health treatment shall be housed in Secure Mental Health housing.~~

~~003.06 Mission specific housing shall may be used for inmates who are members of a vulnerable population, are in protective custody status, or have other special needs. seriously mentally ill, protective custody status, and other special needs populations as an alternative to restrictive housing. In those situations where restrictive housing is necessary for a special needs inmate, conditions of confinement will address their treatment and service needs and the expectation to employ the least restrictive housing that can safely support their needs as soon as possible.~~

~~003.07 Comprehensive reentry and discharge protocols shall be implemented prior to release to the community, with the goal of returning all inmates who were in restrictive housing to general population, mission specific, and/or treatment based/behaviorally focused housing prior to that release.~~

#### 004. USES OF AND ALTERNATIVES TO RESTRICTIVE HOUSING.

004.01 Alternatives to restrictive housing shall be used in every case possible – including but not limited to: short-term cell restrictions, loss of other privileges, work and restitution assignments, and assigned programming – rather than placing an inmate in restrictive housing as a standard response to rule breaking, disruption, and vulnerability.

004.02 Restrictive housing shall be used predominantly as a short-term intervention, in the least restrictive manner possible consistent with institutional safety and security. When restrictive housing is used, the purpose shall be as a risk- and needs-based intervention, rather than primarily as a mechanism for punishment or incapacitation.

004.03 The guiding focus of restrictive housing shall be on individualized goal planning, behavior change, and treatment as needed that will facilitate the inmate’s capacity to live successfully in general population and return successfully to the community.

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004.03(A) Immediate segregation shall be used as a short-term (30 days or less) risk assessment. For this classification, inmates must show a demonstrated risk to others, from others, or to the security of the facility.

004.03(B) Longer-term restrictive housing shall be used when inmates need more intensive supervision and intervention before promotion to an appropriate non-restrictive housing assignment.

004.03(B)(i) The mission of longer-term restrictive housing shall be as a targeted individualized transition 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. Having no one transition from restrictive housing to the community is a targeted outcome for the agency.

004.03(B)(ii) All assignments to longer-term restrictive housing shall require an initial recommendation from the facility's classification team, and must be reviewed and authorized by the eCentral eOffice multidisciplinary review team (MDRT). The recommendation and review/authorization process will normally be completed within the 30 day immediate segregation time frames.

004.03(B)(iii) There shall be regular reviews and the ability to promote to a less restrictive custody level at any point in time, based on facility recommendations and MDRT approval.

004.03(B)(iv) Inmates in longer-term restrictive housing shall be reviewed at least every 90 days by the MDRT to assess demonstrated compliance with individualized behavior and programming plans and assess the potential for promotion to a less restrictive setting based on compatibility with the safety of the inmate, others, and security of the facility.

004.03(B)(v) Inmates in restrictive housing for 365 consecutive days shall be reviewed every 30 days thereafter by the MDRT and the Director. This review shall include, but not be limited to an assessment of compliance with behavior and programming plans and recommendations from the MDRT for approaches to safely transition the inmate to a less restrictive housing setting. The Director must approve all recommendations to continue housing an inmate in restrictive housing longer than 365 consecutive days.

004.03(B)(vi) The MDRT shall document the decision and rationale for promotion to a less restrictive environment or to continue the inmate in longer-term restrictive housing at each review.

004.03(B)(vii) NOTIFICATION TO DIRECTOR AND INSPECTOR GENERAL. When an inmate has been assigned to longer-term restrictive housing for 180 days, the results of each MDRT review will be sent to the Director and the Inspector General. The ~~packet~~ notification will include all information considered by the MDRT, and the team's decision regarding the housing assignment for the inmate. The Inspector General may provide this information to other appropriate sources as requested.

~~004.03(C) Secure mental health housing shall be used for individuals with serious mental illness who present a high risk to others or to self and who require residential mental health treatment.~~

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~~004.03(D) PEER MENTOR PILOT. No later than July 1, 2018, the department shall implement a pilot project to provide inmates assigned to longer-term restrictive housing access to inmates trained as peer mentors. The peer mentors may provide support and guidance during the classification review process, and assist the inmate in accomplishing his or her behavior and programming plan.~~

004.04 Assessment of inmates who are assigned to restrictive housing shall be conducted by multidisciplinary teams of staff using validated instruments to assess inmate characteristics, needs, risks to reoffend, history of violent behaviors, underlying reasons for behaviors, and motivation to change. An additional review of each recommendation for a longer-term restrictive housing assignment shall be conducted by the MDRT for a final decision.

004.04(A) Restrictive housing facility classification teams shall include, but not be limited to, a unit manager, case manager, and unit sergeant.

004.04(B) IMMEDIATE SEGREGATION REVIEW PROCESS. Initial placement in immediate segregation must be approved by the facility warden within 24 hours. Continued retention in immediate segregation must be approved by the facility warden at within 15 days. Requests for extensions of immediate segregation past 30 days shall require approval by the Deputy Director ~~for Institutions - Prisons~~. Requests for extensions of immediate segregation past 45 days shall require approval by the Director. The maximum length of stay on immediate segregation is 60 days. These duties are not to be permanently assigned to a designee, but can be performed by the acting warden, acting Deputy Director ~~for Institutions - Prisons~~, or acting Director.

004.04(B)(i) ~~The use of restrictive housing~~ Placement on immediate segregation status for inmates who are members of a vulnerable population pregnant inmates, and inmates under the age of 19 requires approval of the warden within eight 8 hours of placement.

~~004.04(C) The central office multidisciplinary review team (MDRT) shall include is led by the Deputy Director Institutions - Prisons (Chair), the Behavioral Health Administrator with input from the following representatives: a behavioral health clinician, a leader of the the intelligence/investigations unit leader, a representative from the classifications/programs unit, and a representative from the research division unit. Other members may be added at the discretion of the chair or the Director. All attendees must be approved by the chairperson.~~ The MDRT shall meet weekly. Team members may request to send a designee to a team meeting, as approved by the MDRT Chair. All attendees must be approved by the chairperson.

004.04(D) APPEALS. Inmates may appeal placement in immediate segregation and assignment to longer-term restrictive housing as a classification action pursuant to ~~Department Administrative Regulations~~ departmental policy.

004.05 Assignment to longer-term restrictive housing ~~and secure mental health housing~~ shall be used only when no other option can safely manage the risk presented by or to the inmate. The overarching goal shall be risk reduction and transition to the least restrictive environment as soon as possible.

004.06 Program delivery formats for high security environments shall be created that allow program participation while ensuring the safety of participants and staff. This shall include

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the development of congregate classroom space where possible. Programming and behavioral health resources will be used to reduce risk and address needs.

004.07 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.

004.08 Mission specific housing focuses 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 housing options for inmates with common interests and challenges.

004.08(A) Mission specific housing shall be used to: (1) reduce the use of restrictive housing by providing a range of alternatives that address needs and reduce the behaviors that previously led to the use of restrictive housing, and (2) provide risk- and needs-responsive options for individuals transitioning from restrictive housing, thus reducing lengths of stay for inmates not ready to return successfully and safely to the general prison population.

004.08(B) Mission specific housing units shall operate as general population units and shall, whenever possible, have out- of-cell programming and opportunities for individuals to interact with other inmates and staff during meals, recreation, dayroom, and work activities. Mission specific housing may include, but shall not be limited to:

004.08(B)(i) Housing for inmates in need of residential mental health treatment;

004.08(B)(ii) Housing for inmates in need of programming or treatment for sex ~~abuse~~ crimes offenses;

004.08(B)(iii) Housing for inmates with developmental/intellectual disabilities and traumatic brain injuries that interfere with their safety and/or ability to function effectively in general population, who otherwise might be in restrictive housing for protection or management; and.

004.08(B)(iv) Housing for inmates in need of residential substance abuse/addictions treatment; ~~and~~.

~~004.08(B)(v) Housing for inmates returning from U.S. theaters of war who would benefit from being housed with other veterans in a supportive environment.~~

004.09 Transition programs and protocols from restrictive housing to other levels of security within NDCS shall be developed to assist inmates in transition to the general population.

004.09(A) Guidelines shall be created and distributed to staff and inmates documenting the steps and criteria for inmates to return to the general population or transition to another form of non-restrictive housing. These guidelines will include an incentive based system that encourages prosocial behavior and program engagement.

004.09(B) Opportunities for inmates 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.

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004.09(C) Inmates 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.

#### 005. PROTECTIVE MANAGEMENT.

005.01 Protective management methods shall not be a restrictive housing status per policy. Inmates needing protective management shall be housed in a safe location designed to reduce the risk of harm from other inmates while having privileges similar to general population housing, with the goal of helping reduce the department's use of restrictive housing and concentrating service and program availability to this population.

005.02 Protective custody describes the status of the inmate. Protective management describes the methods used to meet the needs of inmates who cannot be safely housed in other general population units.

005.03 Immediate segregation for inmates requiring/requesting protective custody may occur while risks are assessed, investigations are completed, and appropriate housing is identified. The components, times frame, and procedures for this assessment and investigation shall comply with departmental policy governing these placements.

005.04 Protective management units shall be operated similarly to general population units in terms of out-of-cell time, access to programming, access to work and recreation, etc.

005.05 Appropriate residential mental health treatment housing for protective custody status inmates will be provided when needed.

#### 006. BEHAVIORAL HEALTH.

006.01 Staff shall divert inmates ~~with a serious mental illness~~ who are members of a vulnerable population to the least restrictive environment and provide risk- and needs-responsive therapeutic settings that are interactive, constructive, and based on individualized interventions while balanced with safety and security.

006.02 All inmates placed in any form of restrictive housing shall receive an assessment by health services to identify any physical injuries, urgent mental health needs, or other urgent conditions prior to being placed in their assigned cell. When this initial screening is conducted by health services staff and concerns about mental health status are noted, the inmate shall be seen by mental health staff for a one-on-one out of cell assessment within 24 hours. If the mental health needs are deemed to be emergent, the inmate shall be held in a location other than restrictive housing until a mental health screening can be completed.

006.03 All inmates in restrictive housing shall receive a mental health screening within 14 days of placement. ~~or less.~~ This screening will be done in a location outside of the inmate's cell.

006.04 For Inmates in immediate segregation:

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006.04(A) Inmates with a serious mental illness diagnosis whose current level of ~~functionality~~ care does not require residential treatment shall be seen for a one-on-one out of cell consult with a mental health provider every 7 days while on immediate segregation.

006.04(B) ~~The inmate shall be given an opportunity to meet with a mental health provider.~~ An inmate can decline to talk with a provider. Force shall not be used to bring an inmate to the consult with the provider unless there is a clear life threatening issue or serious decompensation is noted.

006.05 Mental health services for inmates in longer-term restrictive housing shall be managed through a combination of requests for consultation made by the inmate or facility staff (as in the general population), weekly cell front visits by mental health providers, and one-on-one out of cell therapeutic assessments every 30 days for those with a diagnosis of serious mental illness if the inmate agrees to the consult. Force shall not be used to bring an inmate out to see a mental health provider unless there is a clear life threatening issue or serious decompensation is noted.

006.06 Additional mental health contacts/assessments shall be conducted based on requests by staff, requests by the inmate, and individual treatment plans.

006.07 Outcomes of mental health consultations and screenings may include identifying the need for a greater level of mental health treatment and intervention, a need for acute or chronic mental health housing ~~secure mental health housing (SMH)~~ rather than other forms of housing, and a need for a formal mental health treatment plan.

006.07(A) Every inmate in ~~SMH~~ an Acute Mental Health Unit (AMHU) or a Chronic Mental Health Housing Unit (CCMHU) shall have an individual treatment plan ~~and a behavior/programming plan.~~

006.07(B) Every inmate in longer-term restrictive housing shall have a behavior and programming plan. Some individuals may also have a clinical individual treatment plan based on their mental health diagnosis and needs.

006.08 Inmates identified as needing acute or chronic residential mental health treatment shall be transferred to an appropriate mental health unit for focused care and intervention. Any exceptions must be approved by the Director.

006.09 Inmates diagnosed with serious mental illness who present a high risk to others and require residential mental health treatment shall be housed in ~~secure a~~ secure a mental health housing ~~unit (SMH)~~ with space for programming, a secure classroom, and yard space on the unit. This unit will provide a focused therapeutic environment, with daily clinical contact to intervene with behaviors that were previously addressed through punitive approaches and isolation.

~~006.09(A) All inmates in SMH shall be monitored and/or physically observed by custody staff no less than every 30 minutes on an irregular schedule to prevent inmates timing behaviors based on predictable observation times.~~

~~006.09(B) Specific risks and needs programming shall be provided for all inmates housed in SMH.~~

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~~006.09(C) Each inmate's SMH assignment must be reviewed by a facility multidisciplinary team every 30 days.~~

~~006.09(D) More than 90 continuous days of housing in SMH shall require review by the MDRT. Reviews shall be conducted every 90 days thereafter.~~

~~006.09(E) An inmate's SMH status shall override any restrictive housing status.~~

#### 007. RISK ASSESSMENT AND MANAGEMENT. ~~(Neb. Rev. Stat. 83-180(3))~~

007.01 Risk and needs assessments shall be used to screen, evaluate, and guide interventions and decisions about classification, housing, programming, and other resources for all NDCS inmates pursuant to Neb. Rev. Stat. 83-180(3).

007.01(A) All assessments shall be conducted by staff trained in their administration and interpretation.

007.01(B) Request for assessment of an inmate may be made by any NDCS staff member who identifies concerns about an inmate's behavior. Behavioral health will review each request and take appropriate action.

007.01(C) Assessments and evaluations shall prioritize (but not be limited to) suicidal behavior or ideation or other harms toward self by an inmate, threats of physical harm toward others, actual physical harm to others while in NDCS custody, concerns about mental health and inability to care for self, and concerns about characteristics or actions that might affect safety in the community at any time and upon discharge.

007.02 Structured decision-making processes as described above shall reflect professional standards of care and emphasize the use of evidence-based approaches and multidisciplinary teams.

007.03 Quality assurance and outcome assessments shall be conducted to identify areas in need of improvement and assure fidelity to evidence based practices, and agency policy and procedures.

#### 008. DISCHARGE AND REENTRY PLANNING.

##### 008.01 PROTOCOLS FOR INMATE DISCHARGE AND REENTRY TO THE COMMUNITY.

008.01(A) The intent of these rules and regulations is to conduct extensive reviews and identify potential discharge risks and needs, as well as ongoing needs for community support, services, oversight, and continuity of care post-release to reduce the risk of recidivism.

008.01(B) Evidence-based assessment tools shall be used ~~to identify any individuals approaching discharge who should be evaluated for mental illness or and dangerousness.~~ pursuant to Neb. Rev. Stat. 83-180.

008.01(C) Preparation of comprehensive and individualized reentry plans shall begin immediately after an inmate's arrival in NDCS pursuant to Neb. Rev. Stat. 83-1,107(4). ~~This individualized reentry plan shall be reviewed during the last 120 days of confinement, or when an inmate has served approximately 80% of their sentence, whichever occurs earlier.~~ The reentry plan, progress, next steps, and needs to meet

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~~reentry goals also shall be reviewed annually in conjunction with the review of an inmate's personalized plan. (Neb. Rev. Stat. 83-1,107(4))~~

~~008.01(C)(i) Reentry plans shall include potential barriers to successful reentry including, but not limited to, transportation, housing, employment and employment preparation needs; medical and mental health needs; documents and paperwork needs; transportation at the time of discharge. be developed pursuant to Neb. Rev. Stat. 83-1,107.~~

~~008.01(C)(ii) All reentry plans and reviews shall take into account the individual's needs, risk to reoffend, history of violent behaviors prior to and while in NDCS, perceived underlying reasons for behaviors, motivation to change, and behavior that raises concern for community safety as release approaches, as identified by evidence-based risk and needs assessment tools.~~

~~008.01(D) For inmates identified as an extreme risk to others and/or the community, local law enforcement officials shall be notified prior to the inmate's discharge.~~

#### 008.02 DISCHARGE PLANNING FOR INMATES IDENTIFIED AS MENTALLY ILL HAVING A MENTAL ILLNESS

~~008.02(A) All inmates with serious mental illness and/or a history of serious violence/sex offenses shall be reviewed by the NDCS discharge review team and/or sex offender services prior to their release to the community from all levels of security. Specialized reentry plans shall be developed for inmates who have been identified as having serious mental health conditions or as seriously mentally ill (See NDCS Administrative Regulation Policy 115.33).~~

~~008.02(B) The discharge review team shall also review all inmates who have been housed in acute or chronic secure mental health housing (SMH) in a 180 day period before their release, or who are housed in SMH acute or chronic mental health housing until their discharge.~~

~~008.02(C) Formal referrals shall be made for those inmates for whom mental health board commitment or a sex offender commitment seems appropriate and most likely to facilitate a secure and safe transition from NDCS custody. (See NDCS Administrative Regulation Policy 115.33.) (Neb. Rev. Stat. 83-1,107 (5)(c))~~

#### 008.03 DISCHARGE PLANNING FOR INMATES WITH RECENT STAYS IN RESTRICTIVE HOUSING.

~~008.03(A) In all cases possible, inmates shall not be released directly from restrictive housing to the community.~~

~~008.03(B) If an inmate is already assigned to or placed in restrictive housing 120 days prior to their scheduled release, the MDRT Chair shall be notified. The MDRT Chair shall contact the facility to discuss appropriate steps to assess risk and conduct release planning consistent with safety within the facility and in the community.~~

~~008.03(C) Strategic reentry and discharge protocols shall be implemented prior to release to the community, with the goal of returning all inmates who were in restrictive housing to the general population, mission-specific, and/or treatment-based/behavioral focused housing prior to that release.~~

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008.03(D) Transitional general population housing, designed to help inmates transition from restrictive housing, based on individualized risk and needs assessments shall be used to prepare individuals for a return to a less restrictive and more interactive security level.

008.03D(i) Transfer to transitional housing will depend on the individual's level of readiness, safety and security considerations, and assessments, reviews, and decisions by the MDRT.

008.03D(ii) The standard for risk shall be measured against the fact that the inmate shall be returning to the community (with the exception of those with life sentences).

008.03(E) All discharges from restrictive housing shall involve an ongoing coordinated effort from facility unit staff, behavioral health staff, social workers, parole administration, and reentry staff to develop specialized reentry plans for any inmate with a stay over 60 days in restrictive housing 150 days before their release.

#### 009. STAFF TRAINING.

009.01 In facilities with restrictive housing ~~and/or secure mental health housing~~, regularly assigned unit staff shall receive special training in working with the population housed in the unit. Refresher training shall be required annually.

009.02 ~~Starting in FY 2018, initial~~ NDCS staff training shall include (but not be limited to) basic communication techniques, ~~M~~ motivational ~~+~~ interviewing, working with mentally ill and ~~special needs~~ vulnerable populations, working with inmates with behavioral disorders, cognitive behavioral interventions, and trauma training, as well as core correctional practice, crisis de-escalation, and intervention. ~~These types of trainings will help prevent incidents and altercations that may result in injuries, use of force, and use of restrictive housing.~~ This training shall be required for all staff interacting directly with inmates.

010. 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. ~~This report shall include:~~

~~010.01 The number of inmates who were held in restrictive housing during the prior year.~~

~~010.02 The mean and median length of time for all inmates who were held in restrictive housing during the prior year.~~

~~010.03 The race, gender, age, and length of time each inmate has continuously been held in restrictive housing for all inmates who were held in restrictive housing during the prior year.~~

~~010.04 The reason or reasons each inmate was held in restrictive housing during the prior year.~~

~~010.05 The number of protective custody inmates who were placed in restrictive housing rather than alternative housing for their own safety, and the underlying circumstances for each.~~

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~~010.06~~ The number of inmates held in restrictive housing who were diagnosed with a mental illness and the type of mental illness by inmate during the prior year.

~~010.07~~ The number of inmates who were released from restrictive housing directly to parole or the general public, and the reasons for those releases during the prior year.

~~010.08~~ The number of inmates that were in restrictive housing at any point 60 days or less prior to release to parole or the general public.

~~010.09~~ Comparable statistics for the nation and each state bordering Nebraska pertaining to subdivisions (4)(a) through (e) of section Neb. Rev. Stat. Stat. 83-4,114, to the extent ascertainable.