

**Vermont Department of Corrections
Final Approved Administrative Rule 05-049 December 2005**

**Classification, Treatment and the Use of Administrative and Disciplinary
Segregation for Inmates with a Serious Mental Illness**

I. AUTHORITY

28 V.S.A. § 701(a); 28 V.S.A. § 906; 28 V.S.A. § 907.

II. PURPOSE STATEMENT

The purpose of this policy is to direct the Department of Corrections in the classification, treatment, and use of administrative and disciplinary segregation, including the maximum length of stay, for inmates who have been diagnosed with serious mental illness. This policy applies to all inmates who have been diagnosed with serious mental illness. It is the intent of the Department of Corrections to offer guidance to staff and contractors regarding their role and responsibilities as required by this rule and to ensure that training, supervision and quality assurance activities promote compliance with this rule.

A review of departmental directives associated with this rule will be completed with any necessary updates of relevant documents within one year of this rule taking effect.

III. APPLICABILITY/ACCESSIBILITY

All individuals and groups affected by the operations of the Vermont Department of Corrections may have a copy of this policy

IV. DEFINITIONS

Qualified Health Care Professional (QHCP): : A physician, physician assistants, nurse practitioners, nurses, dentists, mental health professionals, and others who by virtue of their education, credentials and experience are permitted by law within the scope of their professional practice to evaluate and care for patients.

Qualified Mental Health Professional (QMHP): Psychiatrist, psychologist, psychiatric social workers, psychiatric nurses, and others who by virtue of their education, credentials, and experience are permitted by law to evaluate and care for the mental health needs of patients.

Serious Mental Illness: Substantial disorder of thought, mood, perception, orientation or memory, any of which grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life. This includes, but is not necessarily limited to, diagnoses of schizophrenia, schizoaffective disorder, psychotic conditions not otherwise specified, bipolar disorder, and severe depressive disorders.

Administrative Segregation: A form of separation from the general population when the continued presence of the inmate in the general population would pose a serious threat to life, property, self, staff or other inmates or to the security or orderly running of the institution. Inmates pending investigation for trial on a criminal act or pending transfer may also be included.

Hearing Officer: A person designated by the Commissioner of Corrections and assigned by the Superintendent/Field Manager or designee to conduct hearings.

Disciplinary Segregation: A form of separation from the general population in which inmates committing serious violations of conduct regulations are confined for short periods of time to individual cells separated from the general population. Placement in disciplinary segregation may only occur after finding of a rule violation at an impartial hearing and when there is not an adequate alternative disposition to regulate the inmate's behavior

V. POLICY

Classification, treatment and the use of segregation for inmates with serious mental illness poses unique challenges in the correctional facility setting. Inmates with serious mental illness may often experience an exacerbation of their underlying illness when segregated. The use of segregation for inmates with a serious mental illness will not occur without the direct approval of a physician.

Admission – Any newly-admitted inmate shall be screened by a qualified health care professional who is trained in mental health screening and referral within 24 hours of admission. Observations and responses shall be documented and recorded on a standardized intake mental health screening form. At the time of the intake mental health screening, qualified health care personnel shall give each inmate information regarding access to mental health services, including a written description of the available mental health services and how to access them.

If the inmate is known or suspected of having serious mental illness and is being considered for housing in a segregation unit, the Superintendent shall ensure that the inmate is properly screened and that qualified health and mental health professionals are involved in alternative housing decisions. The QMHP, in consultation with DOC staff, shall determine the appropriate restrictions on visiting, recreation, telephone use, and other activities. If a physician orders an inmate with serious mental illness be placed in segregated housing, he/she will document the level of monitoring needed by qualified health and mental health care professionals, and the inmate will be provided with ongoing assessment and treatment as clinically indicated. Suicide prevention strategies and protocols shall be carefully followed.

Mental Health Services – Every inmate with serious mental illness shall be seen on a regular basis for mental health services and shall have a treatment plan that creates a specific set of goals and the means by which the goals will be accomplished. This includes inmates in segregation. The plan shall include any or all of the following:

- individual or group psychotherapy designed to address the specific problems and concerns of the inmate as identified in the treatment plan
- cognitive-behavioral interventions
- stress management techniques
- psychoactive medications as prescribed
- crisis services as needed
- case management
- other approaches, including psychosocial support services, deemed appropriate for

the goal of returning the inmate to general inmate population.

Inmates with serious mental illness may require services unavailable within the confines of a correctional facility. In such cases the supervising psychiatrist and Department's Healthcare Authority shall refer the inmate to the Vermont State Hospital for possible admission. Other placement options will also be considered as appropriate.

DOC recognizes it is important to minimize sensory deprivation and enhance social support of inmates with serious mental illness.

- To the extent possible consistent with facility, inmate and public safety, the Department will encourage visiting to foster and maintain ties with family, friends and community for inmates with a serious mental illness.
- Restriction or deprivation of visits or phone calls for inmates with a serious mental illness will not be utilized unless expressly ordered by a hearing officer as an outcome of a due process proceeding.

Informed Consent - To the extent possible, mental health services will be developed and reviewed collaboratively with the inmate. The inmate must give informed consent to any treatment, and refusal of treatment shall be honored. Exceptions to this shall proceed in compliance with prevailing federal, state statute, case law, and state policy. Confidentiality of information obtained in the course of treatment shall be maintained, consistent with state statute, case law and state policy with the only exception being normal legal and moral obligations to respond to a clear and present danger of injury to the inmate or others, the possibility of escape, or other serious security breaches. This confidentiality policy must be explained to the individual prior to the commencement of treatment.

Classification – When writing a case plan for an inmate with serious mental illness, the caseworker must consult with qualified mental health professionals for input into the case plan. The QMHP will advise whether the individual will require accommodations to successfully complete required programs, or requires further assessment to determine the accommodations, if any. Inmates with serious mental illness will not be classified for out-of-state placement, unless the out-of-state placement is a program capable of assessing, treating and managing persons with serious mental illness.

Placement of Inmates in Disciplinary Segregation – Inmates with serious mental illness may be placed in disciplinary segregation only after due process and assessment by a QMHP to determine whether contraindications to segregation exist, and upon approval of a physician. If contraindications exist, the QMHP will recommend alternatives to segregation. All alternative options shall be considered prior to placing an inmate with serious mental illness in segregation. These options include, but are not limited to, other disciplinary actions such as loss of privileges, removal from programs or activities, change in living unit, restriction to living unit, early lock-in, point fines, temporary loss of use of personal property, institutional community service/reparation, reprimand, apology, written essay, monetary restitution, restriction to cell or room, or intermittent segregation. The consideration of alternatives must be documented. The Superintendent shall make reasonable efforts to accommodate the behavioral and mental health

needs of the inmate with a serious mental illness in a setting other than segregation, consistent with the safety and security of the institution. If the behavior for which the inmate received the disciplinary report proximately results from serious mental illness, the QMHP shall inform and recommend options for disposition to the Hearing Officer who at his or her discretion, may recommend a dismissal of the disciplinary charge and/or alternative disposition, based on the information received. If the hearing officer disagrees with the recommendation of the qualified mental health professional, she/he will request a second opinion from the facility psychiatrist or advanced practice nurse. Under no circumstance may an inmate be placed on disciplinary segregation or receive a disciplinary report for self-injurious behavior.

The Superintendent shall provide a monthly roster to the Department's Healthcare Authority and supervising psychiatrist detailing the inmates in segregation; the mental health diagnoses, if any; the reasons for the segregation; and the specific length of stay. No inmate with serious mental illness shall be kept in segregation continuously for more than fifteen (15) days

Placement of Inmates in Administrative Segregation – Inmates with serious mental illness may be placed in administrative segregation only after due process and assessment by a QMHP and upon approval of a physician. The Superintendent shall make reasonable efforts to accommodate the behavioral and mental health needs of the inmate in a setting other than segregation, consistent with the safety and security of the institution. These options include, but are not limited to, removal from programs or activities, change in living unit, restriction to living unit, early lock-in, restriction to cell or room, or intermittent segregation. The reasons for which the inmate is placed in administrative segregation must be reviewed by the mental health treatment team, and the supervising psychiatrist must concur with this decision.

The Superintendent shall provide a monthly roster to the Department's Healthcare Authority and supervising psychiatrist detailing the inmates in segregation, the reasons for segregation, and the specific length of stay. Inmates in administrative segregation shall be reviewed by the treatment team not less often than monthly and considered for alternative placement, treatment plan changes, and other adjustments that might facilitate their release from segregation. The treatment plan of each inmate in administrative segregation shall include release from segregation as a specific goal and shall include the means by which that goal may be accomplished. The treatment team, in consultation with DOC staff, shall determine the appropriate restrictions on visiting, recreation, telephone use and other activities.

Mental Health Rounds in Segregation Units – Inmates with a serious mental illness shall receive daily visits from QHCPs or QMHPs to assess their status and initiate/refer for any needed changes in the treatment regimen. These assessments shall document physical observations, the inmate's affect, any suicidal or self-harming ideation, and health complaints. The needs of inmates who are experiencing a current, severe psychiatric crisis, including but not limited to acute psychosis and suicidal depression, shall be addressed promptly, consistent with the inmate's willingness to accept treatment. Alternative placements, consistent with their security, health and mental health needs, shall be considered.

QMHPs shall conduct regular mental health rounds on all inmates confined in segregation to ensure that the inmates receive appropriate mental health services and that symptoms are

detected and treated in a timely manner. QMHPs shall conduct regular mental health rounds on all inmates with serious mental illness at least three (3) times a week and will document visits and their findings in the health record.

Restraints -Restraints may be used, but only as a last resort, by a correctional officer as an emergency intervention when necessary for justifiable self-defense, protection of others, and protection from self-harm, protection of property, to restore order and to prevent escapes. Once an inmate who has a serious mental illness has been restrained in an emergency situation, medical personnel must be immediately consulted.

Any inmate who remains in restraint beyond the initial emergency **AND who has a serious mental illness** must have an immediate face-to-face assessment by health care personnel. They must then notify the psychiatrist on-call and obtain an order for the restraints to be continued.

- The use of metal handcuffs, metal ankle cuffs, leg irons or waist chains is not permitted for restraining inmates with serious mental illness other than in the initial emergency situation.
- The use of oleoresin capsicum (also known as “OC spray” or ”pepper spray”) in any type of restraint situation should be avoided with seriously mentally ill inmates.
 - The documentation of any such use of oleoresin capsicum will include the alternatives attempted and explain the necessity of the use.
- Foreign agents shall not be used on inmates with a serious mental illness except in situations of actual or imminent violence which cannot be controlled by less forceful and less intrusive interventions. Medical review shall occur immediately following use of foreign agents. Deployment shall be in accordance with manufacturers’ instructions by trained staff.
- When a calculated use of force is necessary for an inmate who has a serious mental illness, DOC staff will consult with a qualified health care professional to determine if any contraindications exist prior to its use.
- After two (2) hours, a repeat face-to-face assessment shall be conducted by a member of the health or mental health personnel, the results of which shall be communicated to the physician or psychiatrist who gave the initial order, who may renew the order by telephone for an additional two (2) hours.
- After eight (8) hours, the inmate **MUST** be seen by the psychiatrist or advanced practice nurse.
 - Assessment should include, but not be limited to, a clinical formulation and creation of a behavioral management plan, which includes the goal of limiting the need for future use of restraints. To the maximum extent possible, the inmate should be involved in developing a contingency plan that minimizes the future need for restraints.

- If restrained for more than twelve (12) hours, the Medical Directors for Medical and Mental Health Services and the DOC Health Services Director or their designees must be notified and alternative interventions proposed, including the secure care mental health unit at Springfield and/or the Vermont State Hospital.
- Restraints may not be used for punitive purposes;
- Restraint equipment must be medically appropriate;
- Restrained inmates shall be allowed bathroom privileges as soon as practical.

Concurrent Disabilities – Inmates with serious mental illness may also suffer from cognitive impairments, developmental disabilities, and traumatic brain injury (TBI), as well as an assortment of health conditions. Additionally, functional problems such as very low reading level, communication problems, and poor adaptive living skills may complicate the management, assessment, and treatment of seriously mentally ill inmates. Since these conditions may not be readily apparent to correctional staff who supervise inmates, QMHPs and other clinical staff will assess these or refer for specialized assessment as needed and will assist in the development of both treatment and custody plans which accommodate these conditions. This includes not only diagnosis, but also recognition of the interaction between serious mental illness and other disabilities, and how this interaction manifests itself in the correctional environment.

If the QMHP has reason to believe an inmate is unable to comply with behavioral requirements due to a concurrent condition or complication, the treatment plan will include accommodations to minimize confusion and allow alternative approaches to gaining the inmate's cooperation. An example is to provide verbal explanations of rules and expectations, rather than rely on written handbook instructions. Another is the use of positive reinforcement for successes.

Incarcerated Women and Youth with Serious Mental Illness – Female inmates with serious mental illness require additional considerations. A high prevalence of trauma and abuse history can make the issue more complex. QMHPs will assess these factors and incorporate them into case and treatment planning.

Residential mental health services for incarcerated women may be limited due to population size, resources, and other issues beyond the Department's immediate control. It is, therefore, incumbent on clinical and security staff to find alternative approaches and strategies specific to the clinical needs of women. Use of resources outside the correctional facility, including the Vermont State Hospital, may be necessary to provide alternatives to administrative segregation for women with serious mental illness.

Youthful offenders also have unique characteristics which must be assessed and addressed in a developmentally appropriate manner. The onset of certain types of serious mental illness corresponds with the age of youthful offenders (16-22 years of age.) Thus, it is imperative that clinical staff recognize, diagnose and treat the early onset of these disorders in a therapeutic context. The symptomatic behaviors may include an inability to understand or follow rules,

confusion, inability to form relationships, and thought disorder.

VI. TRAINING – The Department of Corrections will ensure that facility-based security, casework and supervisory staff receive training in the identification of individuals with possible emotional and mental disorders. Current staff who have not already received such instruction will do so through scheduled training workshops.

This training will include the following:

- 1) Recognition of signs and symptoms of mental and emotional disorders prevalent in the inmate population;
- 2) Recognition of signs of chemical dependence and the symptoms of drug and alcohol intoxication and withdrawal;
- 3) Recognition of adverse reactions to psychotropic medications;
- 4) Recognition of signs of developmental disability, especially mental retardation;
- 5) Recognition of the potential for concurrent disabilities;
- 6) Recognition of the unique considerations associated with serious mental illness in incarcerated women and younger offenders;
- 7) Recognition of potential mental health emergencies and instruction in appropriate action in crisis situations, including self-harm;
- 8) Identification of medical problems of inmates housed in mental health units and proper referral for care;
- 9) Suicide prevention;
- 10) Instruction in the procedures for referring an inmate to mental health services for immediate evaluation;
- 11) Relevant Departmental Policy and Administrative Directives

The Superintendent shall ensure that all facility-based security casework and supervisory staff or transferred staff have received such training within one (1) year of their date of employment or transfer, and all current staff have received such training within one (1) year of this rule taking effect. Hearing Officers and Disciplinary Committee members shall receive additional specific training in the risks of segregation of inmates with serious mental illness.

VII. QUALITY ASSURANCE – The Department will conduct ongoing quality improvement procedures to review and improve the quality of mental health services to include, but not be limited to, a monthly review by the Superintendent, Facility Executive and Health Services Director or their respective designees of

- All inmates who have been identified as having a serious mental illness and who are currently assigned to Administrative Segregation. This review will include the date of each inmate's placement and the reason for the placement;
- Any disciplinary action taken for an inmate who has been identified as having a serious mental illness;
- Any incident report involving an inmate who has been identified as having a serious mental illness.

These reviews will be conducted (1) to ensure that proper procedures were followed and (2) to identify if any corrective action is needed to ensure that proper procedure is followed.