

# North Dakota Correctional Facility Standards



Issued: January 1, 2017  
Revised: June 1, 2019  
Effective: January 1, 2020

Prepared by: North Dakota Department of Corrections and Rehabilitation  
**Office of Facility Inspections/Central Office**  
Authority: North Dakota Century Code 12-44.1-24

## Forward

The 51st Legislative Assembly mandated the North Dakota Department of Corrections and Rehabilitation to prescribe rules establishing minimum standards for the construction, operation, and maintenance of public correctional facilities and to prescribe rules for the care and treatment of inmates. 1989 N.D. Laws, ch. 156, § 5. The Department's obligations are codified at N.D.C.C. § 12-44.1-24. Section 12-44.1-24 also requires the Department to appoint a correctional facility inspector qualified by special experience, education, or training to inspect each correctional facility at least once each year to determine whether there is compliance with the Department's standards and rules. The following standards and rules are prescribed in accordance with the statutory requirements under Section 12-44.1-24. The standards and rules are subject to amendment when necessary on account of federal or state law changes and relevant judicial decisions affecting correctional facilities.

### Revision/Review History

Revised/Reviewed: Revised July 2017

Revised/Reviewed: Revised June 2018

Revised/Reviewed: Revised June 2019

### Summary of Revisions

1. (#4) Revised Standard title, added language requiring compliance in addition to policy and procedure.
2. (#21) added "and screening for tuberculosis in accordance with guidance provided by the North Dakota Department of Health;"
3. (#22) Added key points from N.D.C.C. 25-03.1.
4. (#28) Added (l) "use of force resulting in bodily injury" as previously required by Standard 37.
5. (#29) Revised standard title, added North Dakota Highway Patrol as a investigating agency, changed wording from "may" to "shall" for investigations. Clarified language in regard to staff investigations and preservation of evidence.
6. (#31) Removed "f" annual suicide prevention training and moved it to Standard 104.
7. (#33) Removed "f" from Standard previously requiring event from Standard 28 to be written in the daily written record. .
8. (#36) Removed "l" from Standard as this is covered later in this Standard.
9. (#38) Added daily accountability measures and language to include outside items brought into the facility.
10. (#44) Added language from N.D.C.C. 12-44.1-30 requiring approval by the DOCR, and criteria required for approval.
11. (#47) Added criteria already included in Standard 56(h).
12. (#50) Added Naloxone training and re-worded Standard requirements.
13. (#56) Added required time frame for HIV testing. Section a - Added the bolded words and removed the strikethrough. "if **required by guidance provided by the North Dakota Department of Health** ~~not tested within the last 90 days;~~" Section g – Added the bolded word "Every inmate who is convicted of a crime and **further** imprisoned for fifteen days..."
14. (#59) Added the requirement to define intoxication.
15. (#60) Added the word "operation" to Standard.
16. (#66) Re-worded (b) & (c) changing the requirements of this Standard.

- 17. (#71) Changed word “posted” to “made available” when referencing menus.
- 18. (#79) Changed word “posted” to “made available” when referencing visitation times.
- 19. (#88) Re-worded recreation criteria allowing for the use of indoor or outdoor recreation.
- 20. (#93) Changed sanctions permitted for use on minor rule violations, and clarification of disciplinary action of pre-trial inmates.
- 21. (#97) Clarified the use of restrictive housing.
- 22. (#98) Reworded title of Standard to include “safety & security”. Also clarified the procedures for the placement of someone in restrictive housing.
- 23. (#103) Added Naloxone training to (b), and clarification on CPR requirements for grade 1 facilities.
- 24. (#104) Added re-occurring training requirements.
- 25. (#108) Added reference to N.D.C.C. § 12-44.1-07.1 in Standard.
- 26. Revised the definition of “Restrictive Housing” and Deleted the definition of “Disciplinary Hearing, Pre-hearing Detention, Protective Custody, Restricted to Quarters, and Segregation.”
- 26. Added: “Office of Facility Inspections/Central Office” to Cover Page

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## **Administration**

### **Standard 1: Variances**

A correctional facility shall comply with the standards adopted by the Department of Corrections and Rehabilitation unless a variance has been granted by the North Dakota Department of Corrections and Rehabilitation (“DOCR”). A request for a variance must be submitted in writing using the DOCR Variance Request Form. A variance may be granted in accordance with N.D.C.C. § 12-44.1-26.

### **Standard 2: Applicable Laws**

The facility administrator shall comply with all applicable state and federal laws, rules, and regulations, including all requirements of 28 Code of Federal Regulations Part 115 (PREA).

### **Standard 3: Grade, Classification and Population**

The Director of the DOCR shall notify the administrator of the approved correctional facility grade classification the approved number of classifications, and total number of people that may be confined in the correctional facility. The Director of the DOCR shall notify the administrator of the terms of any variances that have been granted.

### **Standard 4: Facility Review of Policy and Compliance**

Each requirement for a policy or procedure in the North Dakota Correctional Facility Standards includes the requirement to demonstrate the facility’s compliance with its policy. The facility administrator for each correctional facility shall review each policy and the facility’s compliance with it at least annually. When necessary, the facility administrator shall update the facility’s policies and procedures and make them available in electronic form to the DOCR Office of Facility Inspections upon request.

### **Standard 5: Inmate Access to DOCR**

Every facility must have a written policy and procedure to permit inmates to contact the DOCR Office of Facility Inspections. The DOCR Office of Facility Inspections contact information shall be made available to inmates.

## **Inspections**

### **Standard 6: Inspections and Self Inspections**

Inspections of correctional facilities must be made pursuant to North Dakota Century Code Chapter 12-44.1 and the North Dakota Correctional Facility Standards. Every facility administrator shall submit a self-completed jail inspection report to the DOCR Office of Facility Inspections at least 30 days prior to the scheduled onsite inspection.

## **Standard 7: Contracts for Out-of-State Inmates**

A correctional facility that contracts with another state or a regional correctional center, county or of another state including for those in transport, shall comply with N.D.C.C. Section 12-44.1-31

### **Physical Plant**

## **Standard 8: Construction and Renovation Plan Expenditures**

All construction plans or renovation plans with an estimated expenditure of more than one hundred thousand dollars must have approval from the office of the Director of the Department of Corrections and Rehabilitation before commencement of the project.

## **Standard 9: Construction and Renovation Plan Standards**

All plans for the construction or major renovation of correctional facilities must be in accordance with model correctional facility standards such as the standards published by the American Correctional Association, National Sheriff's Association and the National Institute of Corrections. Unless otherwise noted, the square footage and physical plant requirements apply to plans approved after January 1, 1992.

## **Standard 10: Classification and Male and Female Separation**

Facilities shall adopt a classification system for inmates to provide for the security, safety and order of the facility and for the safety and security of the community. If the facility has adopted a classification system approved by the Department of Corrections and Rehabilitation, the facility is not required to comply with subsections 3,4, and 5 of N.D.C.C. Section 12-44.1-09. Facilities must have a policy and procedure that requires separate male and female housing and includes visual, physical and sound separation between male and female inmates. Adult correctional facilities may not detain juveniles except in exigent circumstances or as allowed by the Office of Juvenile Justice Delinquency Prevention Act. Each facility must have a policy and procedure for the classification and management of juveniles in the event a juvenile has been brought into the facility.

## **Standard 11: Single Cell Square Footage and Illumination Requirements**

A single cell must provide a minimum of 70 square feet if confinement exceeds ten hours in a 24-hour period. All single cells must provide a minimum of 35 square feet of unencumbered space. Illumination must be at least twenty foot-candles at desk level.

## **Standard 12: Single Cells for Special Needs**

Every facility must have a policy, procedure and practice to provide single-occupancy cells for: inmates who may present a serious threat to the safety or security of the correctional facility, the staff, the inmate, or other inmates; inmates with severe medical disabilities; sexual predators; inmates likely to be exploited or victimized; or inmates with other special needs.



### **Standard 13: Multiple Occupancy Room Usage**

A facility may use a multiple occupancy room for medium or minimum custody inmates. Correctional staff shall classify and screen inmates before housing in multiple occupancy rooms.

### **Standard 14: Multiple Occupancy Room Square Footage Requirements**

A multiple occupancy room must contain a minimum of 25 square feet of unencumbered space per inmate. When confinement exceeds ten hours per day, at least 35 square feet of unencumbered space must be provided for each occupant.

### **Standard 15: Grade One Dayroom for Indoor Recreation**

Grade one facilities must provide dayrooms that are separate from indoor recreation areas.

### **Standard 16: Secure Booking Area**

Every facility must have a booking area that is separate and secure from the public and inmate housing areas.

### **Standard 17: Control Room Separation**

Every newly constructed facility must provide a control room area that is physically separated and staffed separately from a law enforcement dispatch center.

### **Standard 18: Toilet, Wash Basin, and Urinal Ratios**

Inmates, including inmates housed in medical units and infirmaries, must have access to toilets and wash basins with temperature controlled running water 24 hours a day. Inmates must be able to use toilet and wash basin facilities without staff assistance while confined to their cell or sleeping area.

- a. Multiple occupancy rooms must include toilets at a minimum ratio of one toilet per eight inmates for females and one toilet per twelve inmates for male inmates.
- b. Urinals may substitute for up to half the toilets in male living areas.
- c. All living areas with three or more inmates must have a minimum of two toilets.
- d. Washbasins must be provided at a ratio of at least one washbasin for every twelve inmates.
- e. A facility may have a cell, or cells, without an above-floor toilet or wash basin when it is necessary for the temporary housing of an inmate who is under close observation because of destructive or self-destructive behavior.

### **Standard 19: Shower Temperature and Ratio**

Grade one, two, and three facilities must provide showers that are available to all inmates. Facility showers must maintain the water temperature between 100 to 120 degrees. The facility shall provide showers at a ratio of not less than one shower per twelve inmates.

## **Standard 20: Recreation Area Space Requirements**

The minimum space requirements for exercise areas: (Post 1992 construction)

- a. Outdoor exercise area: 15 square feet per inmate for the maximum number of inmates expected to use the space at one time, but not less than 1,500 square feet of unencumbered space;
- b. Covered/enclosed exercise areas in facilities of 100 or more inmates: 15 square feet per inmate for the maximum number of inmates expected to use the space at one time, with a minimum ceiling height of 18 feet, but not less than 1000 square feet of unencumbered space;
- c. Covered/enclosed exercise areas in facilities of less than 100 inmates expected to use the space at one time, with a minimum ceiling height of 18 feet, but not less than 500 square feet of unencumbered space.

## **Admissions**

### **Standard 21: Intake Requirements**

Only staff that have completed North Dakota Correctional Officer Basic certification and Correctional Medical Training I and II, or have completed the training required under Standard 103, or are acting under the supervision of trained correctional facility staff may perform intake screenings on inmates at intake admission. Staff shall record their findings in the medical screening portion of the intake form approved by the facility health care administrator. The medical screening portion of the intake form may be completed by a licensed medical professional. Every facility must have a written policy and procedure that includes a written record of:

- a. Current illness and health problems, including dental problems, sexually transmitted diseases and other infectious disease, and screening for tuberculosis in accordance with guidance provided by the North Dakota Department of Health;
- b. Medication taken and special health requirements, to include meals, medical equipment, or medical treatments;
- c. Use of alcohol and other drugs, including types of drugs used, mode of use, amounts used, frequency used, date or time of last use and history of problems that may have occurred after ceasing use;
- d. Past and present treatment or hospitalization for:
  1. Mental health illness;
  2. Self-harm or suicide; and
  3. All other medical issues.
- e. Past or present thoughts or attempts of self-harm or suicide;
- f. Pregnancy;
- g. Presence of lice, scabies or other parasites;
- h. Other health problems designated by a licensed medical professional.
- i. Observations of:
  1. Behavior, including state of consciousness, mental status, appearance, conduct, tremor and sweating;
- j. Body deformities, trauma markings, bruises, lesions, jaundice, ease of movement, or other observed injuries or conditions that appear to be irregular or unusual.
- k. Recent tattoos or injection sights.

- I. Dispositions to:
  - 1. Facility intake;
  - 2. General population;
  - 3. General population and referral to a licensed health care service;
  - 4. Referral to a licensed health care service on an emergency basis until inmate is medically cleared; and
- m. All medical screenings shall be immediately forwarded to the medical administrator or provider for review or follow-up.
- n. Each facility must have a policy and procedure for the management of juveniles brought into the facility in order to comply with the juvenile detention requirements of the Office of Juvenile Justice and Delinquency Prevention. The policy and procedure must include:
  - 1. Whether juveniles are ever brought into the facility by law enforcement and placed in a secure or non-secure area.
  - 2. Whether juveniles are ever held for purposes other than processing, awaiting release to a parent or guardian, or are awaiting transfer or transport.
  - 3. Whether sight and sound separation from adult inmates is maintained at all times.
  - 4. Whether the facility is completing the Juvenile Detention Record Form for all secure holdings and those non-secure holdings that were held for purposes other than processing or awaiting a parent or guardian pickup or transport.

## **Standard 22: Supervision of Mentally Ill and Emotionally Disturbed**

Every facility housing an inmate with signs or symptoms of mental illness or emotional disturbance or who is detained pursuant to a court-ordered emergency commitment under N.D.C.C. chapter 25-03.1 shall have written policies and procedures for the placement of an inmate under close staff supervision, up to and including direct personal observation. Staff shall document the time, condition, and actions of the inmate in the designated log. As required by N.D.C.C. § 25-03.1-25(3)(b), the correctional facility may not detain an individual taken into detention solely for emergency involuntary commitment (a) if another secure facility is accessible and (b) for more than twenty-four (24) hours.

## **Standard 23: Intake File Content Requirements**

Staff shall establish individual files at intake. The following minimum identification data and information must be recorded for each inmate in the facility:

- a. Name (previous legal names or aliases, if any);
- b. Physical address;
- c. Date of birth;
- d. Social Security Number;
- e. Sex;
- f. Race;
- g. Nationality;
- h. Weight;
- i. Height;
- j. Current or prior military experience;

- k. Identifying marks, including scars, marks, and tattoos (location and description);
- l. Name, address and phone number of person to be contacted in case of an emergency;
- m. Occupation;
- n. Name of Employer;
- o. Time and date of admission to the facility;
- p. Authority for admission;
- q. Offense (list all);
- r. Name of delivering officer and arresting officer;
- s. Medical screening form;
- t. Mental health and suicide screening form;
- u. PREA notification, screening and acknowledgment;
  - 1. Every facility shall complete the PREA screening and acknowledgment prior to general population assignment.
- v. Primary language, reads and understands;
- w. Digital photos;
  - 1. front and side
  - 2. identifying marks
- x. Documentation of completed ten-print arrest fingerprint card;
- y. Cell and housing assignment;
- z. Date of release or transfer;
- aa. Name of person recording the data; and
- bb. Name and contact information of the victim(s), (or the parent or guardian of the victim(s), if the victim is a child).

## **Standard 24: Facility Clothing**

A facility may require an inmate to wear facility clothing. If inmates are required to wear facility clothing, the facility shall issue a clean set of appropriately sized jail clothing, including pants and shirt or coveralls, footwear and undergarments. Inmates may be permitted to wear their own clothing.

## **Standard 25: Inventory of Inmate Personal Property and Inmate Accounts**

Staff shall inventory and itemize all personal property including money, taken from an inmate at intake. A record of the property must be signed by the inmate, placed in inmate's file and the property made available to the inmate upon release, unless the property is evidence of a crime. The property room must be secure and access to the property room controlled.

Each facility shall have a written policy and procedure for inmate financial accounts for each inmate in accordance with N.D.C.C. Section 12-44.1-12.1. The policy must include procedures for the withdrawal of funds from the inmate's account for payment of the inmate's legitimate financial obligations, which include child support, restitution, and the inmate's medical, dental, and eye care costs, and for payment of the inmate's funds to the inmate if the inmate is transferred to another facility or when the inmate is discharged from the facility.

## **Standard 26: Intake Telephone Call**

Every facility must have a written policy and procedure that allows a newly admitted inmate the opportunity to attempt at least one telephone call. These calls may be completed on a facility telephone or facility-approved electronic device as soon as admission process has been completed or within a reasonable time determined by the administrator. The facility shall maintain documentation of the telephone calls and, when applicable, the inmate's refusal to make a telephone call.

## **Standard 27: Inmate Orientation**

Upon admission or as soon as practical, staff shall provide inmates orientation information in a language the inmate understands, including:

- a. Visitation;
- b. Mail;
- c. Contraband;
- d. Inmate rights and responsibilities;
- e. Prohibited acts and penalties that may be imposed;
- f. Grievance procedures;
- g. Health care procedures and how to access health care;
- h. Inmate hygiene and cell sanitation responsibilities; and
- i. PREA information.

Staff shall document completion of the orientation and shall obtain the inmate's signature and date. If the inmate refuses, or is unable to acknowledge, the completion of orientation, correctional facility staff shall document the inmate's refusal or inability to acknowledge completion of orientation.

## **Supervision and Security**

### **Standard 28: Incident Reporting**

Every facility must have a policy and procedure to report significant incidents occurring within the jurisdiction of the facility. Significant incidents must be reported within one hour to the DOCR Office of Facility Inspections. Every facility shall submit the Significant Incident Reporting form provided by the DOCR to the DOCR Office of Facility Inspections within 24 hours of the initial notice. Significant incidents include:

- a. Severe assaults of any individual;
- b. Escapes and attempted escapes;
- c. Riots, strikes, demonstrations, and disturbances;
- d. Refusal of medical care the health authority determined is necessary;
- e. Death;
- f. Attempted self-harm, self-harm, or suicide;
- g. Any incident involving staff injury caused by inmate conduct and which requires outside medical attention;
- h. Disruption of essential services;
- i. Significant damage or destruction of facility property;
- j. Substantiated PREA allegations;
- k. Whenever a juvenile is brought into the secure area of the facility; and
- l. Use of Force resulting in bodily injury.

## **Standard 29: Preservation of Evidence and Request for Independent Investigation**

The facility administrator shall request an independent investigation from the North Dakota Bureau of Criminal Investigation or the North Dakota Highway Patrol following:

- a. In-custody death of an inmate;
- b. Escape or attempted escape of an inmate; and
- c. Criminal activity committed by facility employees that results in employee or inmate bodily injury.

The facility administrator or the DOCR Office of Facility Inspections may request an independent investigation from the North Dakota Bureau of Criminal Investigation or the North Dakota Highway Patrol following criminal activity committed by facility employees that does not result in bodily injury.

After an incident, the facility shall ensure that all evidence is collected and stored in accordance with evidence collection and chain of custody procedures and that the scene of an in-custody death or crime is preserved for law enforcement investigation.

## **Standard 30: Trained Staff and Female Staff**

A facility may not detain an inmate without a trained person on duty capable of responding to the reasonable needs of the inmate. When females are housed in the facility, at least one female correctional officer must be on duty at all times in the facility. An inmate may not be placed in a supervisory capacity over other inmates.

## **Standard 31: Suicide Prevention Plan**

Every facility must have a written suicide prevention plan that includes:

- a. Identification of the warning signs and symptoms of suicidal behavior and mental illness;
- b. Proper response to suicide behavior or attempts;
- c. Referral procedures;
- d. Housing observation and suicide watch level procedures; and
- e. Follow up monitoring.

## **Standard 32: Inmate Observation**

Every facility must have a written policy and procedure for inmate observation. Trained staff shall personally observe each inmate during each hourly period on an irregular basis. Trained staff shall personally observe inmates who exhibit suicidal tendencies, self-destructive behavior, emotional distress, or have specialized medical problems at more frequent intervals as the inmate's condition requires. Documentation of inmates in observation must include:

- a. Reason for placement;
- b. Staff assigned to supervise;
- c. Location, date, time, activities, and condition of inmate at each check;
- d. Actions by agency to provide specialized outside services for inmate; and
- e. Reason for removal from observation.

### **Standard 33: Daily Written Record Requirements**

Every facility shall maintain a daily written record, including the date and time and the name of staff that completed the record, including:

- a. Personnel on duty;
- b. Inmate population count, include inmates on temporary leave, which must be conducted at least three times in a 24-hour period;
- c. Admissions and releases of inmates, including inmates transporting out of the facility along with reason of transport;
- d. Shift activities; and
- e. Entry and exit of physicians, attorneys, and other visitors.

### **Standard 34: Inmate Count**

Every facility must have written policy and procedures for documented formal counts of inmates held in the facility including:

- a. Inmates out on temporary leave from the facility;
- b. There must be a minimum of three formal counts within each 24-hour period; and
- c. At least one of the three minimum formal counts must be completed outside a shift change and one formal count must be a standing count.

### **Standard 35: Searches of Facility Grounds and Vehicles**

Each facility must have a written policy and procedure governing searches of the facility and grounds, vehicles used to transport inmates, and inmate living areas.

### **Standard 36: Searches - Clothed and Unclothed**

Every facility must have a written policy and procedure for clothed and unclothed searches of inmates. The policy and procedure must include the following:

- a. Licensed medical personnel may conduct manual, visual, or instrument searches of body cavities based upon reasonable suspicion and within the scope of their licensure.
- b. Licensed medical personnel may conduct cross-gender unclothed body searches which must be documented.
- c. Unclothed cross-gender body searches may not be conducted on male or female inmates absent exigent circumstances. Facility staff shall document all cross-gender unclothed searches of male or female inmates, including the exigent circumstances for the search.
- d. Correctional staff may only conduct unclothed body searches of an inmate who will not be placed in the general population, including visual inspections of sexually intimate parts of the body, when the individual is in the facility for a crime of violence, a crime involving illegal drugs, or the unclothed body search is based on reasonable suspicion the inmate may be concealing drugs, weapons, or other contraband.
- e. Correctional staff may conduct unclothed body searches, including visual inspections of sexually intimate parts of the body, of inmates who will be placed in general population.

- f. Correctional staff may conduct unclothed body searches, including visual inspections of sexually intimate parts of the body, of inmates who have had contact visitation or who have returned to the facility after work release, work details, court appearances, or for medical care.
- g. Unclothed body searches must be conducted where they cannot be observed by any other individuals not involved in the search. Visual inspections must be non-intrusive and not involve touching the inmate.
- h. Cross-gender clothed or unclothed searches may not be conducted on female inmates absent exigent circumstances. Facility staff shall document all cross-gender searches of female inmates, including the exigent circumstances for the search.
- i. PREA requirements, including:
  - 1. Staff may not search or physically examine a transgender or intersex inmate for the sole purpose of determining the resident's genital status.
  - 2. If the inmate's genital status is unknown, it may be determined through conversation with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
  - 3. If it is determined either through assessment or through admission by the inmate that they are transgender or intersex, the person responsible for the screening or the search shall ask the inmate if they prefer to be searched by a male or female officer and document the response.
  - 4. If the inmate does not have a preference or if a search must be completed due to security concerns, available staff may conduct the search and document the reason the person was searched by someone not of the resident's preferred gender.

### **Standard 37: Use of Force**

Every facility must have a written policy and procedure governing use of force. The written policy and procedure must restrict the use of force to the safety and security of staff, inmates, and the public, protection of property, prevention of escapes, prevention of crime, when necessary to enforce facility rules and restore order, and only in accordance with legal authority. Staff shall document any use of force and submit a written report to the administrator by the end of the employee's shift. The facility shall make a reasonable attempt to video record all use of force situations. The facility shall report the use of force that results in injury in accordance with Standard 28.

### **Standard 38: Inventory of Equipment**

Every facility must have a written policy, procedure, and practice for a current inventory, security, control and use of keys, tools, culinary and medical supplies and equipment. The policy must include daily accountability measures for outside equipment and tools coming into the facility.



### **Standard 39: Post Orders**

Every facility shall have written post orders for every correctional officer post. Written post orders must specify the duties of each post and the procedures that must be followed to carry out the assignment. All post orders shall be reviewed annually and updated or amended as needed.

### **Standard 40: Post Order Staff Review**

All staff shall read, sign and date the post orders annually, or before beginning to work a post that the staff has not been assigned in the previous 120 days, or when the post orders are updated or amended.

### **Standard 41: Supervisory Staff Patrols**

Every facility shall have a written policy, procedure and practice requiring that supervisory staff shall conduct a daily patrol, including weekends and holidays, of all areas occupied by inmates and record their visits and patrols in a daily log. The sheriff or the facility administrator shall visit the facility living and activity areas at least weekly to observe living and working conditions. When the sheriff or facility administrator is not available, a supervisory official shall complete these duties. These visits and patrols must be logged.

### **Standard 42: Exceeding Maximum Capacity**

A facility may not operate above the capacity established by the DOCR. Every facility must have a written policy and procedure governing temporary space arrangements in case of arrests that exceed the maximum capacity of the facility.

### **Standard 43: Use of Restraints**

Every facility must have a written policy and procedure for the use of restraint devices, including use of restraints with pregnant females. The use of restraints on a female who is in active labor and delivery is prohibited. Restraint devices may only be used as a precaution against escape, during transports, for medical reasons by direction of the medical personnel, and as a prevention against inmate self-injury, injury to others, or property damage. Restraint devices may not be applied as punishment. All decisions and actions on the use of restraints must be documented.

### **Standard 44: Transportation of Inmates**

Every facility must have a written policy and procedure governing the transportation of inmates outside the facility. The policy must include the use of equipment during transport, the qualifications for transport officers, the use of firearms under N.D.C.C. § 12-44.1-30, the use of restraints, inmate transport clothes, and the use of escort vehicles. Policy shall include procedures for the following:

- a. Transportation of pregnant inmates. To allow the inmate to protect herself and the fetus, facilities shall refrain from the use of restraints on pregnant inmates. Exceptions may only be permitted by written approval from the facility administrator.
- b. The use of firearms for inmate transports. Procedures which allow staff to carry a weapon must include:
  1. A requirement for intermediate weapons to be carried any time a firearm is possessed.
  2. Firearms, weapons, and ammunition must be separated from inmates by the use of a caged vehicle or a chase vehicle accompanying the transport.

As required by N.D.C.C. § 12-44.1-30, the policy must be approved by the DOCR if the facility allows any correctional officer to carry a weapon.

### **Standard 45: Transfer of Inmate Files**

Every facility must have a written policy and procedure governing the transfer of a discharge summary of the inmate's medical, dental, mental health and forensic records when the inmate is transferred to another correctional facility. A correctional facility may transfer complete medical, dental, mental health and forensic records to a correctional facility receiving an inmate upon the request of the facility. Prescription medications shall be transferred with the inmate.

### **Standard 46: Notification of Victims and Witnesses**

Every facility must have a written policy and procedure governing the notification of victims and witness in accordance with North Dakota law. At minimum, the policy and procedure must include a process for ensuring the collection, storage, and accuracy of offender and victim and witness information; the confidentiality of victim and witness information; a timely notification method; a way to document notification; and a process to follow up with notifications, if needed, and in compliance with the statewide automated victim information and notification (SAVIN) system.

### **Standard 47: Inmate Work**

A facility may require sentenced inmates to perform work. The correctional facility may not require a pre-trial detainee to perform work except routine general housekeeping duties. A facility may allow a pre-trial detainee to perform work only upon the request or consent of the pre-trial detainee. A facility shall provide safety training to inmates prior to work assignment. A facility shall maintain documentation of the training. A facility health care provider shall screen the inmate prior to assignment to work.

## Health Care

### **Standard 48: Health Care Authority**

A facility administrator shall designate a health agency, licensed physician, nurse practitioner, or a physician's assistant, to be the health care authority. The health care authority shall be responsible for health care administration and development of health care policies and procedures. The facility administrator shall maintain a copy of the credentials of persons providing health care in the facility.

Medical and Mental health decisions are the sole province of the responsible medical or mental health clinician and may only be countermanded by non-clinicians with the approval of the responsible medical or mental health clinician.

### **Standard 49: Access to Medical Care**

Every facility must have a written policy and procedure for receiving and documenting inmate health issues on a daily basis, including that inmates have access to medical care including physical, mental health, eye care and dental care. This procedure must provide that the medical administrator receives all sick call requests. Sick call for Grade one and grade two facilities must be provided by a licensed medical professional at least once per week.

Adequate staff, space, equipment, supplies and materials must be provided if health care is delivered in the correctional facility. The cost of medical care may be subject to payment by or reimbursement from the inmate. Inmates may not be denied access to medical care because of their inability to pay costs.

### **Standard 50: First Aid and CPR**

At least one employee and as many additional employees as needed to comply with Standard 57 must be on duty within the facility who have current certification in basic first aid training, basic cardiopulmonary resuscitation training (CPR), and Naloxone administration.

### **Standard 51: Access to Medical Professional**

A licensed physician, nurse practitioner, physicians' assistant, or registered nurse must be available on-call on a 24-hour basis. Procedures to notify a licensed physician, nurse practitioner, physician's assistant, or registered nurse on duty at a hospital are sufficient. Correctional facilities in communities without a licensed physician, nurse practitioner, physician's assistant or registered nurse must have arrangements to provide health care to an inmate on the same basis as any resident of the community. The inmate must be transported to an appropriate health care facility or a licensed physician, nurse practitioner, physician's assistant, or registered nurse must be brought to the correctional facility.

## **Standard 52: Health Care Training of Staff**

Every facility must have a training program approved by the health care administrator that includes:

- a. Response to emergency health related situations;
- b. Recognition of signs and symptoms and knowledge of action required in potential emergencies;
- c. Administration of first aid and cardiopulmonary resuscitation;
- d. Methods of obtaining assistance;
- e. Recognition of signs and symptoms of mental illness, intellectual disability, emotional disturbance, and chemical dependency;
- f. Procedures for patient transfers to appropriate medical facilities or health care providers; and
- g. If medications are delivered to inmates by staff within the facility, staff must be trained in and currently certified in accordance with N.D.C.C. § 12-44.1-29.

## **Standard 53: Treatment of Injuries Sustained in Facility**

Every facility must have a written policy and procedure to provide medical care for anyone injured within the facility.

## **Standard 54: Emergency Medical Supplies**

Every facility shall maintain a first aid kit, emergency medical supplies equipment, and automatic external defibrillator (AED). The health care administrator shall determine the contents, locations and procedures for inspection of the kits, including a schedule and checklist to be used when inventorying the contents.

## **Standard 55: Separation of Inmate Files**

Every facility shall maintain the confidentiality of an inmate's medical, psychological, and treatment records. The medical records file must be separate from the correctional facility confinement records.

- a. The inmate's medical, psychological, and treatment records may only be disclosed in accordance with NDCC 12-44.1-28, which requires that a court may order the inspection of the records, or parts of the records, upon an application to the court and a showing there is a proper and legitimate purpose for the inspection and the provision of written authorization from the inmate for the inspection.
- b. Except for drug and alcohol treatment records, this requirement does not apply to criminal justice agencies, the Department of Corrections and Rehabilitation, other federal, state, or local correctional facilities receiving custody of the inmate, a municipal or state district court, the Department of Human Services, public hospitals or treatment facilities, or licensed private hospitals or treatment facilities.
- c. Records of an inmate's identity, charges, criminal convictions, bail information, and intake date and projected release dates are open records.

- d. Records of a sentenced inmate's institutional discipline and conduct and protective management are exempt records under North Dakota Century Code Section 44-04-17.1.
- e. Institutional discipline and conduct and protective management records of all other inmates are confidential records and may only be disclosed in the same manner as an inmate's medical, psychological, and treatment records.

## **Standard 56: Inmate Health Appraisals**

A licensed physician, nurse practitioner, physician's assistant, registered nurse, or other qualified person the health care administrator may authorize, shall perform a health appraisal for each inmate detained in a grade one or grade two facility within fourteen days of the inmate's admission. The health care administrator shall determine the nature and extent of the health appraisal. The health care administrator may require a health appraisal at an earlier date if the health care administrator determines it is necessary. The health appraisal must include:

- a. Tuberculosis testing and documented results, if required by guidance provided by the North Dakota Department of Health;
- b. Review of admission medical and mental health screening;
- c. Collection of additional data to complete the medical, eye care, dental, mental health, and immunization histories;
- d. Recording of height, weight, pulse, blood pressure and temperature;
- e. Laboratory or diagnostic tests and examinations the health care administrator may deem necessary;
- f. Review of medical examination results;
- g. Every inmate who is convicted of a crime and further imprisoned for fifteen days or more in a grade one or grade two jail or regional correctional center must be tested for the presence of antibodies to or antigens of the human immunodeficiency virus (HIV) in accordance with N.D.C.C. Section 23-07-07.5 within thirty (30) days or prior to release, whichever occurs first. The results of any positive test or reactive result must be reported to the North Dakota Department of Health and the inmate tested in accordance with Section 23-07-02.1; and
- h. Inmates shall be medically screened by the facility health care provider prior to assigning inmates to a work detail.

Every facility shall document an inmate's refusal to participate in the health appraisal in whole or in part, and the documentation placed in the inmate's medical records. If the health care administrator determines that the inmate's refusal presents a risk to the health or safety of other inmates or staff, the inmate may be separated from the inmate population until such time as the health care administrator determines that the risk no longer exists.

## **Standard 57: Health Care Orders**

Every facility, in conjunction with the health authority, shall establish a written policy and procedures to carry out the orders of the health authority relating to an inmate's medical care. Staff shall document all treatment administered to inmates pursuant to orders of the health care administrator. Staff must be trained and able to respond to inmate medical emergencies within a four-minute response time.

## **Standard 58: Inmate Death Notification**

Every facility shall establish a written policy and procedures to make arrangements for notification of the next of kin or legal guardian of an inmate in case of death. The facility shall notify the county coroner and the state's forensic examiner in the event of an inmate death and comply with Standard 28.

## **Standard 59: Intoxication Management and Social Detoxification**

Every facility must have a written policy and procedure for intoxication management that includes a definition of intoxication if the facility holds persons who appear intoxicated or under the influence of alcohol or controlled substances. A facility may not hold a person for more than 24 hours solely for intoxication management. Before a facility may hold a person for intoxication:

- a. A licensed medical provider must provide a medical discharge from care signed by a physician;
- b. The facility must be able to provide a trained staff person within constant hearing distance of the intoxicated person; and
- c. The facility shall comply with N.D.C.C. § 5-01-05.1.

A facility may only provide social detoxification if the facility meets all requirements of N.D. Admin. Code Chapter 75-09-08.1.

## **Safety and Emergency Procedures**

### **Standard 60: Maintenance and Testing of Emergency Equipment**

Every facility must have written policy and procedures that address the maintenance, operation, and testing of emergency equipment. The facility must have access to equipment necessary to maintain essential lights, power, and communications in an emergency. A monthly inspection or testing of equipment must be completed. Generators must be tested monthly or as recommended by the manufacturer.

### **Standard 61: Fire Prevention**

Every facility must have a written policy and procedure specific to the facility for fire prevention to ensure the safety of inmates, staff, and visitors, including:

- a. Provision for an adequate fire protection service.
- b. A system of fire inspection and testing of equipment including locks, keys and doors at least annually, by the authority having jurisdiction.
- c. Availability of fire hoses or extinguishers at appropriate locations throughout the facility.
- d. At least two documented fire drills in all facility locations annually. At least one of these drills must include the evacuation of each living area of the facility.
- e. Fire drills should include the evacuation of all inmates unless there is a reasonable belief institutional security may be jeopardized. In that event, actual evacuation of specific inmate(s) is not required. The drills and findings shall be recorded in the facility master log.

## **Standard 62: Evacuation Plans**

Every facility must have a written evacuation plan prepared in case of fire or major emergency and the plan must include:

- a. Procedures to account for all inmates, visitors, and staff;
  1. Location of building and room plans;
  2. Evacuation routes, including exit signs for traffic flow;
  3. Locations of fire extinguishers;
  4. Location of first aid kits and AED's;
  5. Location of fire pull stations; and
  6. Plans for the immediate release of inmates from locked areas and provide for a backup system if power operated locks fail.
- b. The facility shall review the plan with the authority having jurisdiction annually and update the plan when necessary.
- c. Every facility shall complete an annual fire inspection by an independent, qualified source and provide documentation of all completed corrective actions.

## **Standard 63: Emergency Plans**

Every facility must have written plans for a response to:

- a. An escape or attempted escape;
- b. Riots, hunger strikes, hostages, and disturbances;
- c. Disruption of essential services; and
- d. Storms or other acts of nature that may affect facility operations, safety, and security.

All facility personnel must be trained in the implementation of written emergency plans. Every facility shall review these plans annually and update when necessary.

## **Standard 64: Storage and Use of Hazardous Materials**

Every facility must have a written policy, procedure, and practice governing the storage and use of hazardous, toxic, and caustic materials. These policies and procedures must be in accordance with all applicable laws and regulations. A right-to-know manual of Safety Data Sheets must be available for review.

## **Standard 65: Boiler Inspection**

Every facility utilizing a boiler shall comply with North Dakota Boiler Inspection requirements.

## **Sanitation and Hygiene**

### **Standard 66: Bedding and Clothing Exchange and Laundering**

Each inmate shall be provided:

- a. Appropriate clean clothing, towels, and bedding. The bedding must include:
  1. Mattress, pillow and pillow case, if mattress does not have a built in pillow, two sheets or a DOCR approved alternative, including bed sleeves, at least one blanket to provide comfort to sustain summer and winter comfort zones. All mattresses must be in compliance with national regulatory authority standards.
- b. The opportunity to exchange or launder sheets and pillowcases at least weekly, or more frequently if directed by the administrator.
- c. Clothing, pillows, and bedding must be laundered prior to issuance to a newly admitted inmate.
- d. Inmates shall be allowed to exchange or launder clothing. Clothing, including undergarments and towels, must be exchanged or laundered not less than twice weekly.

### **Standard 67: Removal of Inmate Clothing or Bedding**

A facility may remove inmate clothing or bedding from an inmate's cell when it determines it is necessary for safety, security, sanitation, or orderly operation of the facility. The facility shall have written procedures in place for the removal and return of inmate clothing and bedding from an inmate's cell. The facility staff shall document the date, time, items, and reason for removal, along with the date, time, and items returned to the inmate.

### **Standard 68: Personal Hygiene Products**

Inmates detained for more than twenty-four hours must be provided personal hygiene items including:

- a. Soap suitable for the entire body;
- b. Toothbrush and toothpaste;
- c. Toilet paper;
- d. Feminine hygiene products, and; and
- e. Access to a shower at designated intervals to be determined by the administrator, but not less than three times per week.

### **Standard 69: Inmate Grooming**

Every facility shall establish a policy and procedure for grooming, including hair length and style and facial hair length and style. The facility's policies shall allow an inmate to request an exception to the facility's hair and facial hair restrictions, if any, based on the inmate's sincerely held religious beliefs. The facility may determine a schedule for barbering and hair care services.



## **Standard 70: Biohazard Materials**

Every facility must have written policy, procedures, and practices for the proper handling and disposal of biohazard materials.

## **Food Service**

### **Standard 71: Licensed, Registered Dietician Review of Menu**

Grade one and two facilities shall have a licensed, registered dietician review and approve food menus annually. The approved menus shall be made available in locations accessible to all inmates in the facility. This rule applies to in-house and contracted food services.

### **Standard 72: Special Diets**

Every facility must have a written policy and procedure that includes:

- a. Special diets approved by the appropriate medical or dental personnel;
- b. Special diets for inmates whose religious beliefs require adherence to religious dietary laws; and
- c. Prohibitions of the use of food as a disciplinary measure.

### **Standard 73: Food Service**

Every facility shall provide inmates at least three meals, of which two are hot meals, at regular meal times during each twenty-four-hour period, with no more than fourteen hours between the evening meal and breakfast. The facility staff shall document substitutions in the meals actually served, and substitutions must be of equal nutritional value. Every facility shall maintain accurate records of all meals served. Variations may be allowed during emergencies, for inmates on work release, and for weekends and holidays, provided nutritional requirements are met.

### **Standard 74: Alternate Food Service**

Every facility must have written policies and procedures that an alternate food service may be provided to an inmate who uses food or food service equipment in a manner that is hazardous to the inmate or other persons. Alternative food service must be on an individual basis, it must be based on health or safety considerations, it must meet basic nutritional requirements, and there must be documented approval by the jail administrator and responsible health authority. The alternate food service must be reviewed and approved every seven days by the facility administrator or designee and responsible health authority.

### **Standard 75: Food Service Health Inspection**

Food service facilities, equipment, and employees must meet all applicable health, safety, and sanitation laws and regulations. The health authority having jurisdiction shall conduct an inspection of the food service area of each grade one, two and three facility at least once a year. Each facility must maintain records of all inspections and all actions taken as a result of these inspections.

## **Standard 76: Weekly Food Service Inspections**

When meals are prepared in the facility, the facility shall have a written policy, procedure and practice requiring weekly health, safety and sanitation inspections by the administrator or designee and food service manager. Records of the inspections and any corrective actions shall be maintained in the facility.

## **Telephone and Visitation**

### **Standard 77: Inmate Telephone Usage**

A facility may allow an inmate to make telephone calls to persons other than the inmate's attorney within limitations set by the facility. The facility shall notify inmates at intake and shall post a notice in a location accessible to all inmates that phone calls, except to attorneys, are subject to monitoring and recording.

### **Standard 78: Visitation Restriction or Denial**

Every facility must have a written policy and procedure for inmate visitation. The facility may deny visitation or place restrictions on visitors when the facility has justification to believe the visitor presents a threat to correctional facility safety, security, order, or inmate rehabilitation. The facility shall document the justification for restricting or denying visitation.

### **Standard 79: Visitation Times and Notification**

Every facility shall establish reasonable times for visitation. The visiting schedule must be made available in a location accessible to all inmates.

### **Standard 80: Visitor and Property Searches**

Every facility shall have a policy, procedure and demonstrated practice governing visitation and property, including: searches of visitors, contractors, volunteers, legal counsel and clergy. These rules must be made available to the inmates and publicly posted.

## **Mail**

### **Standard 81: Incoming and Outgoing Inmate Mail**

Every facility must have a written policy, procedure, and practice governing incoming and outgoing general, official, and legal mail that includes:

- a. Mail depository or mail collection process;
- b. Procedures for screening all incoming and outgoing mail;
- c. Documenting and recording incoming and outgoing legal and official mail; and
- d. Process for inmates to challenge mail rejections.

## **Standard 82: Inmate Access to Reading Materials**

Every facility must have a written policy and procedure to provide for inmate access to reading materials, magazines, newspapers, and periodicals.

## **Standard 83: Mail Rejection or Removal of Items**

Every facility must have a written policy and procedure governing incoming and outgoing mail, including electronic mail, and legal or official mail. In each case when it is necessary to reject or remove any item of incoming or outgoing mail, a written record must be made that includes:

- a. The inmate name and number;
- b. A description of the mail in question;
- c. A description of the action taken and the reason for such action;
- d. The disposition of the item(s) involved;
- e. Signature of the acting officer;
- f. Written notification to the inmate and sender;
- g. A due process procedure must be provided to the inmate allowing them to challenge the facility's rejection of mail;
- h. The item shall not be destroyed or sent out until the process has been completed; and
- i. Packages mailed to an inmate must be handled the same way as mail or publications.

## **Access to Courts and Legal Representatives**

### **Standard 84: Inmate Attorney Telephone Contact**

An inmate must be allowed to make telephone calls to the inmate's attorney at reasonable times. These calls may not be audio monitored or recorded. The telephone number of an attorney who has called an inmate must be obtained and the inmate must be permitted to return the call at a reasonable time.

### **Standard 85: Attorney Visits**

Each inmate must be allowed visits from legal counsel. Upon an inmate's request, legal counsel may visit an inmate after admission or as soon as reasonably possible. All subsequent visits by legal counsel may be restricted to reasonable hours. Visits by legal counsel may be subject to staff or video observation, but without audio-monitoring; however, when there may be observation, a notice must be posted in visiting areas. Audio or video recording of attorney visits is prohibited.

### **Standard 86: Inmate Legal Material**

Every facility must have a written policy and procedure to provide inmates who are not represented by legal counsel or by standby legal counsel, legal materials or assistance from persons trained in the law for purposes of preparing a defense in a criminal prosecution, to challenge a criminal conviction on a direct appeal, post-conviction, habeas proceedings, and to challenge conditions of confinement.

A list of persons trained in the law must be available to the inmates.

Legal materials may include:

- a. A current edition of a leading legal dictionary;
- b. North Dakota and federal rules of civil, criminal and appellate procedure;
- c. Rules of Court for the state of North Dakota and for the United States District Court for the district of North Dakota;
- d. Chapters of the North Dakota century code relating to criminal procedure, substantive criminal law, and state habeas and post-conviction relief;
- e. North Dakota cases related to criminal law and procedure;
- f. State post-conviction forms and United States district court forms for habeas and Section 1983 proceedings; and
- g. Statutes and Rules applicable to federal habeas corpus and federal civil rights.

A facility may provide access to legal materials through sources approved by the administrator, including the law library of the state's attorney, materials from the law library of the district court, materials from the law library of the North Dakota Supreme Court, and may include photocopies of legal materials.

### **Standard 87: Legal Material Sources**

Every facility shall have a policy and procedure for inmates to obtain legal materials from sources approved by the administrator, including:

- a. State and federal court forms;
- b. Prisoner self-help manuals and access to a basic law library (e.g., local district court library, states attorney library);
- c. Postage and copying services; and
- d. Access to notary services.

## **Exercise and Recreation**

### **Standard 88: Recreation and Supervision**

Grade one and grade two correctional facilities shall provide inmates the opportunity for a minimum of one hour of daily programming outside their cells unless there is documented rational for withholding programming. One hour of programming must include the opportunity for physical exercise in a recreation area.

Facilities that have recreation areas shall have policies for recreation, whether it is indoor or outdoor.

Each facility that has a secure outdoor recreational area for inmate use must have trained staff that must provide direct visual observation of all inmates in the outdoor recreational area at all times.

## **Inmate Rights**

### **Standard 89: Non-Discrimination**

Each facility must have a written policy and procedure for the practice of religion. Inmates have the right to reasonable opportunities to exercise their religious beliefs, subject to limitations reasonable related to correctional facility safety and security.

Inmates may not be subjected to discrimination because of race, religion, genetics, sex, sexual orientation, gender identity, origin, creed, nationality, or disability, and shall receive equal treatment under all policies and procedures of this facility.

### **Standard 90: Prohibition of Abuse and Harassment**

Every facility must have a written policy and procedure to protect inmates from personal abuse, corporal punishment, personal injury, disease, property damage and harassment.

### **Standard 91: Grievance Procedure**

Every facility must have a written policy and procedure to allow inmates to file grievances. Staff may not retaliate against inmates who file grievances. The policy and procedure must include:

- a. Forms on which an inmate may report a grievance;
- b. The facility shall provide a written report setting forth the results of the investigation and any recommendation for the disposition of the grievance to the inmate and shall file the report in the correctional facility records;
- c. Timeline for inmate reporting and staff response prescribed reasonable time limit, with special provisions for responding to emergencies; and
- d. The facility shall provide at least one level of appeal which may not be reviewed by the same individual who initially reviewed the grievance. The reviewing authority shall document the findings and the disposition of the appeal. The facility shall provide a copy of the appeal report to the inmate and shall file the appeal report in the correctional facility records.

## **Inmate Sentence Reduction, Standards and Discipline**

### **Standard 92: Rules of Inmate Conduct and Prohibited Acts**

Every facility shall establish written rules of inmate conduct that specify acts prohibited in the correctional facility and the disciplinary sanctions that may be imposed for facility rules violations. The facility shall make these rules available to all inmates and establish procedures to ensure that all inmates understand the rules and sanctions that may be imposed. Facility staff shall document disciplinary action of any kind and the administrator shall review disciplinary action involving fines, fees, restitution or the extension of time to serve to ensure compliance with clearly established law and facility policy.

Every Grade one and Grade two correctional facility must have a written policy and procedure for inmates to earn sentence reduction credit based upon performance criteria established by the facility administrator. Sentence reduction credit includes credit for time spent in custody prior to sentence when ordered by the sentencing court. An inmate may not earn more than a one-day sentence reduction credit per six days served.

Facility staff shall notify inmates in instances where an inmate is alleged to have committed a crime that the case may be referred to law enforcement officials for criminal investigation and possible prosecution in addition to facility discipline.

### **Standard 93: Levels of Violations**

Every facility shall have written policy, procedure, and practice, including at least two levels of violations, sanctions for each level, and the use of pre-hearing detention. The policy shall include procedures that reflect the following:

- a. For pre-trial and post-conviction inmates, violations involving possible sanctions of (1) fines, fees, or restitution; (2) adverse impact on release date; or (3) more than 5 days of disciplinary restrictive housing, restriction to quarters, or work without pay require due process (a disciplinary hearing as outlined in Standard 66 and a twenty-four hour notice of the charges prior to the hearing).
- b. Additionally, for pre-trial inmates, violations involving possible sanctions of 5 or less days of disciplinary restrictive housing, restriction to quarters, or work without pay require due process (a disciplinary hearing as outlined in Standard 66 and a twenty-four hour notice of the charges prior to the hearing).

The policy may permit the inmate to waive the twenty-four hour notice, in writing.

### **Standard 94: Disciplinary Report Requirements**

Disciplinary reports must include:

- a. Specific rules violated;
- b. A formal statement of the charge, or charges;
- c. An explanation of the violation, including: who, what, when, where, why and how, and any immediate action taken by staff;
- d. Disposition of any physical evidence;
- e. Staff and inmate witnesses and statements;
- f. Date and time the report is completed and reporting staff signature; and
- g. If disclosure of information used in the finding of guilt may pose a risk to the safety or security of the facility, staff or inmates, including information received from a confidential informant the facility may withhold disclosure of the information. When this occurs, there must be a document that provides clear rationale for that action maintained with the record. A summary of the confidential information must be given to the inmate unless the disclosure of the information could jeopardize the safety or security of the facility or person.

## **Standard 95: Pre-hearing Restrictive Housing**

Inmate may be placed in restrictive housing for a violation of the facility rules prior to a disciplinary hearing. This action must be documented and a disciplinary hearing shall follow within seven days unless authorized by the jail administrator.

## **Standard 96: Disciplinary Hearing Requirements**

Every facility must have a written policy and procedure that requires:

- a. The disciplinary hearings are conducted by an impartial person or panel of persons;
- b. The inmate has the right to appear at the hearing and testify;
- c. For major violations the inmate must be allowed to call witnesses and present documentary evidence in the inmate's defense if permitting the inmate to do so will not jeopardize security, order, or rehabilitation. Reasons for not allowing the inmate to call witnesses must be documented in the hearing record;
- d. A written record must be made of the disciplinary hearing decision. The disciplinary hearing decision must include a summary of the evidence, findings of fact that establish the guilt or innocence of the inmate, and an explanation for disciplinary sanctions imposed. Any confidential informant information must be separately documented. A copy of the disciplinary hearing decision and evidence relied upon must be given to the inmate, but confidential information that could jeopardize the safety or security of the facility or person may be excluded;
- e. When sanctions involve restrictive housing, fines, fees, restitution or may affect their release date, inmates have the right to appeal decision to the administrator or an independent authority; and
- f. Any disciplinary action recommended by the hearings officer(s) may be reduced on appeal but not increased.

## **Special Management Inmates**

### **Standard 97: Use of Restrictive Housing**

If a facility utilizes disciplinary restrictive housing or administrative restrictive housing, it must have a written policy, procedure, and practice consistent with Standard 93 and Standard 98 for use of restrictive housing and for supervision of inmates while in this status.

### **Standard 98: Use of Immediate Restrictive Housing for Safety and Security**

Every facility shall have a written policy, procedure, and practice to authorize the use of administrative restrictive housing without notice and hearing for inmates (pre-trial or post-conviction) who may need protection from other inmates, or present a serious threat to the safety or security of the facility, to themselves, or to any person. The policy must include procedures that reflect the following:

- a. When inmates are placed in immediate restrictive housing, facility staff shall document the reasons they were placed in administrative restrictive housing.
- b. Placements in administrative restrictive housing must be reviewed within 72 hours by the facility administrator. The facility administrator shall document the review.
- c. Placements in administrative restrictive housing must be reviewed at least every seven (7) days by the facility administrator. The facility administrator shall document the reason for release or continued placement.

### **Standard 99: Restriction of Items or Activities**

When inmates are not provided any usually authorized item or activities, including visitation, facility staff shall make a report of the action and provide the report to the facility administrator.

### **Standard 100: Showering and Shaving**

Inmates in restrictive housing must have the opportunity to shower at least three times per week. Shaving may be allowed according to the facility schedule.

### **Standard 101: Restrictive Housing Inmate Telephone Calls**

Inmates in restrictive housing may be allowed telephone calls related specifically to access to the courts and family emergencies as determined by the facility administrator.

### **Standard 102: Restrictive Housing Review**

Inmates in restrictive housing after seven continuous days are afforded at least one hour outside their cell, five days per week, unless the facility administrator can document with clear rationale for denial.

## **Training and Staff Development**

### **Standard 103: Staff Orientation Training**

Every facility must have a written policy and procedures requiring all correctional officers participate in a documented orientation training program prior to independent assignment. The orientation program must meet the particular needs of the correctional facility and must include at a minimum:

- a. Facility policy and procedures;
- b. All emergency procedures to include basic first aid, CPR, and Naloxone administration;
- c. Classification of prisoners;
- d. Booking procedures, including medical and mental health screening;
- e. Use of force;
- f. Suicide behavior, response, intervention, and observation;
- g. Victim notification in accordance with state law; and
- h. Prison Rape Elimination Act (PREA).



Grade one facilities may provide the training required in section b at any time within the first year of employment and may work independently prior to its completion, provided the facility has sufficient employees on shift to comply with Standards 50 and 57.

### **Standard 104: Staff Training Requirements**

All administrators and staff who work in direct and continuing contact with inmates shall within their first year of employment receive training determined and approved by the North Dakota Peace Officer Standards and Training (P.O.S.T.) Board and shall receive an additional forty-eight hours of training during every three year period following the first day of January after the date of employment. The training must include the following:

- a. Recertification for CPR and Naloxone every two years;
- b. Recertification for Certified Medication Technician (CMT 2) every four years; and
- c. Annual suicide prevention training for staff with responsibility for inmate supervision.

### **Standard 105: Staff Certification and Recertification**

The North Dakota Peace Officer Standards and Training (P.O.S.T.) Board shall determine the North Dakota Correctional Officer Training necessary to achieve North Dakota certification.

- a. Correctional staff that has completed correctional officer training outside the State of North Dakota may submit the training record to the P.O.S.T. Board for review, and shall complete any portion of North Dakota Correctional Officer Training as determined by the Board.
- b. Any person who has completed North Dakota Correctional Officer Training and has not been employed as a North Dakota Correctional Officer for one year, but less than three years, shall complete any portion of North Dakota Correctional Officer Training as determined by the Board.
- c. Any person who has completed North Dakota Correctional Officer Training and has not been employed as a North Dakota Correctional Officer for three years or more shall complete North Dakota Correctional Officer Training.

### **Standard 106: Security Equipment**

Every facility shall have a written policy, procedure, and practice covering the use, issuing, storage, training, inventory, and maintenance of security equipment, weapons, and firearms.

## **Grade Four Jails**

### **Standard 107: Grade Four Requirements**

Grade four facilities:

- a. Must be staffed by a licensed peace officer or a trained correctional officer;
- b. May not detain an inmate for more than eight hours or overnight;
- c. Shall provide meals to inmates detained more than four hours;
- d. Facility staff shall personally observe each inmate at least every thirty minutes on an irregular basis and shall document when they observed each inmate and what they observed;
- e. May not detain an inmate under the age of eighteen; and
- f. Must complete a yearly fire inspection per Standard 63 of the North Dakota Correctional Facility Standards.

Current grade four facilities are not subject to requirements of 28 Code of Federal Regulations Part 115 (PREA).

## **Correctional Facility Inmate Population Plan**

### **Standard 108: Management of Inmate Population**

Pursuant to N.D.C.C. §12-44.1-07.1, every Grade one and Grade two correctional facility, in cooperation with law enforcement, state's attorneys, and the judiciary in which the correctional facility is located, shall develop an inmate population plan to prioritize inmate admissions and inmate retention, including alternatives to physical custody for individuals under charge or conviction of an offense. This standard does not apply when there are exigent circumstances that may affect the correctional facility's operations and inmate population, including acts of God and mass arrests.

### **Glossary**

The following words or terms, when used in this North Dakota Department of Corrections and Rehabilitation Correctional Facility Standards, shall have the following meaning unless the context clearly indicates otherwise.

#### **Adult Lockup:**

A secure temporary-hold nonresidential facility that does not hold individuals overnight and includes a facility with cuffing rails or cuffing benches. (12-44.1-01(2))

#### **Clothed Search:**

A non-invasive search of a prisoner by hand performed by skimming the exterior surface of the prisoner's clothing covering the legs and torso.

**Correctional facility:**

A city or county jail or detention center and regional corrections center for the detention or confinement of persons in accordance with law. The use of the term does not imply and may not be used to require the provision of services including treatment, counseling, career and technical education, or other educational services, except as may otherwise be required or provided for under this chapter. (12-44.1-01(3))

**Correctional facility staff:**

Correctional personnel employed by the department including: jailer, deputy, counselor, correctional officer, or any other title, whose duties include the ongoing supervision of inmates in a correctional facility. (12-44.1-01(4))

**Court holding facility:**

A secure facility, other than an adult correctional facility or adult lockup, used to temporarily detain individuals before or after a detention hearing or other court proceedings, and is not used to detain individuals overnight. 12-44.1-01(5)

**Dayroom:**

Space for activities that is situated immediately adjacent to the prisoners' sleeping area and separated from the sleeping area by a wall.

**Disturbance:**

An event that affects the normal operations of a facility.

**DOCR:**

North Dakota Department of Corrections and Rehabilitation

**Exigent Circumstances:**

Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of the facility.

**Facility administrator or administrator:**

The sheriff, chief of police, administrator, superintendent, director, or other individual serving as the chief executive officer of a correctional facility. (12-44.1-01(1))

**Five point restraint:**

Includes four-point restraint with application of a fifth point soft belt across the chest. Patients in five point restraints require maximum observation.

**Four point restraint:**

Restraints to both wrists and both ankles, or when fewer than four extremities are restrained but the person's own condition renders the remaining extremities unmovable. Usually used for behavioral health management.

**Formal Count:**

Counts that are conducted at specific times of the day or night in an organized manner and documented in the facility log.

**General Correspondence:**

Incoming or outgoing correspondence sent or received via the United States Postal Service other than legal or official mail.

**Grievance:**

A circumstance or action considered unjust or unfair.

**Grade One Facilities:**

A correctional facility for confining inmates not more than one year. (12-44.1-06(1)(a))

**Grade Two Facilities:**

A correctional facility for confining inmates not more than ninety days. (12-44.1-06(1)(b))

**Grade Three Facilities:**

A correctional facility for confining inmates not more than ninety-six hours. (12-44.-06(1)(c))

**Grade Four Facilities:**

An adult lockup or court holding facility in which individuals may not be detained overnight. (12-44.1-06(1)(d))

**Health Care Administrator:**

The person authorized and responsible for making decisions about the deployment of health resources and the day to day operations of the health program.

**Health Authority:**

A licensed physician, nurse practitioner, physician's assistant or health agency responsible for the provision of health care services.

**Hot meal:**

A measure of food served and eaten at one sitting prepared in accordance with NDDCOR facility Rules 76 and served at a palatable temperature range of 110° - 120° F. (43.3° – 48.8° C.).

**Informal Count:**

Frequent, irregular checks on inmates.

**Intake assessment:**

Questions asked of the arresting and or transporting officer intended to assist in the identification of inmate risk and/or need.

**Inmate:**

Any individual, whether in pretrial or sentenced status, who is detained or confined in a correctional facility. The term does not include an individual who is under the supervision of the correctional facility and is supervised under home detention, electronic monitoring, or a similar program that does not involve physical detention or confinement in the facility. (12-44.1-01(6)).

**Intoxication Management:**

The taking into custody of an individual who is visually impaired as the result of the consumption of alcohol or ingestion of a controlled substance in accordance with N.D.C.C. Section 5-01-05.1. The individual may not have necessarily been charged with a criminal offense.

**Jail:**

A correctional facility, including a county or city jail or a regional corrections center. (12-44.1-01(7))

**Juvenile:**

Means a child under the age of eighteen years and is not married or under the age of twenty years with respect to a delinquent act committed while under the age of eighteen years.

**Legal Mail:**

Correspondence between an inmate and an attorney at law or agent of the attorney, between an inmate and a court of law, or between an inmate and a legal advocacy group, including Protection and Advocacy, the American Civil Liberties Union, or the Innocence Project.

**Multiple Occupancy:**

Between 2 and 64 inmates housed in the same cell or living area.

**Official:**

An employee with the Department of Corrections and Rehabilitation authorized by the Director to conduct correctional facility inspections in accordance with N.D.C.C. § 12-44.1-24.

**Official Mail:**

Correspondence to or from: Elected or appointed federal, state, or local officials, foreign consulates or embassies, and including the North Dakota Department of Labor's Human Rights Division and North Dakota Protection and Advocacy.

Official mail does not include mail between an inmate and the North Dakota Department of Corrections and Rehabilitation, the Parole Board, or the Pardon Advisory Board, or any federal, state, or local criminal justice agency

**On site:**

A trained correctional officer who is physically present within the correctional facility.

**Physician or other licensed medical personnel:**

A psychiatrist, medical doctor, osteopathic physician, physician's assistant, registered nurse, licensed practical nurse, emergency medical technician (paramedic level) or clinical nurse specialist.

**Post Orders:**

Written directives at each security post providing the minimum and mandatory duties associated with each work shift (seven days a week, twenty-four hours a day).

**PREA:**

Prison Rape Elimination Act of 2003 (28. Code of Federal Regulations Part 115)

**Regional corrections center:**

A correctional facility established and maintained by more than one county or city, or a combination of counties and cities, for the confinement of inmates. 12-44.1-01(9)

**Reasonable Suspicion:**

Exists when a reasonable person would be justified by some objective manifestation to suspect potential criminal activity.

**Restrictive Housing:**

Separation from general population for up to twenty-three hours per day, including disciplinary restrictive housing (such as detention, segregation, and restriction to quarters) as sanctions for past behavior or administrative restrictive housing (such as pre-hearing detention, segregation, protective housing, observation, and restriction to quarters) to prevent harm or to maintain the safe and orderly running of the facility.

**Special Management Inmates:**

Individuals who have special needs or whose behavior presents a serious threat to the safety and security of the facility, staff, general inmate population, or themselves.

**Social Detoxification:**

Means detoxification in an organized residential nonmedical setting delivered by appropriately trained staff who provide safe, twenty-four-hour monitoring, observation, and support in a supervised environment for a client to achieve initial recovery from the effects of alcohol or another drug. Social detoxification is characterized by its emphasis on peer and social support and it provides care for clients whose intoxication or withdrawal signs and symptoms are sufficiently severe to require twenty-four hour structure and support but the full resources of a medically monitored inpatient detoxification are not necessary

**Standing Count:**

Individuals are required to stand in full view of staff to verify their identification and general welfare.

**Suicide attempt:**

A life endangering situation or obvious serious injury or illness which in the evaluation of the staff requires an immediate response.

**Trained correctional facility staff:**

Correctional personnel who have completed a course of training approved by the peace officer standards and training board. (12-44.1-01(1))

**Visual, physical and sound separation:**

Visual or sight contact means clear visual contact between an incarcerated male prisoner and an incarcerated female prisoner within close proximity in housing units and program areas. Sound contact means direct normal speech between an incarcerated male prisoner and an incarcerated female prisoner while in housing units and program areas in a facility. Physical separation includes visual and sound separation. Program areas include treatment, work, education, and recreation.

**Unclothed Body Search:**

A search in which an inmate may be required to expose his or her body.

**Unencumbered Space:**

Space that is not encumbered by furnishings or fixtures.

*Lance Anderson*

12/18/2019

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Lance Anderson  
Deputy Director Facility Inspections  
Office of Facility Inspections  
Department of Corrections & Rehabilitation  
Central Office  
3100 Railroad Ave.  
Bismarck, ND 58501  
701-328-6039  
[lwander@nd.gov](mailto:lwander@nd.gov)



12/18/2019

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Joseph Joyce  
Warden of Transitional Facilities/Facility Inspections  
Office of Facility Inspections  
Department of Corrections & Rehabilitation  
Central Office  
3100 Railroad Ave.  
Bismarck, ND 58501  
701-328-6789  
[jrjoyce@nd.gov](mailto:jrjoyce@nd.gov)