

NEW MEXICO ASSOCIATION OF COUNTIES
SAMPLE POLICY AND PROCEDURE
RESTRICTIVE HOUSING

Approved March 2020

I. REFERENCES:

New Mexico Restricted Housing Act NMSA 1978 §33-16-1 et seq.

II. PURPOSE:

The purpose of this policy is to provide guidelines for the management, supervision, and reporting of Detainees in Restrictive Housing.

III. POLICY STATEMENTS:

- A. () County will comply with the New Mexico Restricted Housing Act NMSA 1978 §33-16-1 et seq.
- B. () County will make all efforts to ensure that no Detainee in our custody is confined to their cell more than twenty-two hours per day without meaningful and sustained human interaction.

IV. DEFINITIONS:

- A. **Restrictive Housing:** The confinement in a cell for twenty-two or more hours each day without daily, meaningful and sustained human interaction.
- B. **Serious Mental Disability:** A serious mental illness, including schizophrenia, psychosis, major depression and bipolar disorder, or having a significant functional impairment along with a brain injury, organic brain syndrome or intellectual disability.
- C. **Qualified Health Care Professional:** Physician, licensed psychologist, prescribing psychologist, certified nurse practitioner, clinical nurse specialist with a specialty in mental health, or a physician assistant with a specialty in mental health.

V. PROCEDURES:

A. GENERAL GUIDELINES:

1. Prohibitions on the use of Restrictive Confinement:

- a. A Detainee who is younger than eighteen years of age shall not ever be placed in Restrictive Housing.
- b. A detainee who is known to be pregnant shall not ever be placed in Restrictive Housing.

2. Mental Health Limitations on the Use of Restrictive Housing

A Detainee who has been diagnosed with a Serious Mental Disability or who is clearly exhibiting self-injurious behavior, grossly abnormal and irrational behaviors, delusions or suicidal behavior shall not be placed in Restrictive Housing unless a Qualified Health

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Care Professional has determined that the behavior is unrelated to a serious mental disability, except under the following circumstances:

- a. During the first five consecutive days of confinement
- b. For no more than 48 hours when the Detainee poses an imminent threat of physical harm to themselves or others
- c. For longer than 48 hours when the Detainee poses an ongoing and realistic threat of physical harm to specific other person(s)

3. Requirements for Housing Detainees with Serious Mental Disability in Restrictive Housing

a. Use of Restrictive Housing for up to 48 Hours

If the Detention Administrator finds that a Detainee with a Serious Mental Disability needs to be placed in Restricted housing to prevent an imminent threat of physical harm to themselves or others, the Detainee may be placed in Restrictive Housing for up to forty-eight hours so long as:

1. The Detention Administrator makes a written record of the facts and circumstances that necessitated the Detainee's placement in Restrictive Housing;
2. The Detention Administrator prepares a written action plan describing how the facility will transition the Detainee out of Restrictive Housing at the earliest opportunity; and
3. The Detention Administrator notifies the facility's Health Services Administrator in writing that the Detainee was placed in Restricted Housing.

b. Use of Restrictive Housing for more than 48 Hours

1. **If, after fulfilling the requirements for use of Restrictive Housing for up to 48 hours,** the Detention Administrator finds that the Detainee with a serious mental disability poses an ongoing and realistic threat of physical harm to another person, the Detainee may be placed in Restrictive Housing for longer than forty-eight consecutive hours only if:
 - i. Other methods for ensuring the safety of the threatened person(s) have been considered and determined insufficient, impractical or inappropriate;
 - ii. The Detainee is placed in restricted Housing for the shortest time period and under the least Restrictive conditions practicable;
 - iii. The detention facility provides regular access to medical and mental health care for the Detainee; and
 - iv. The Detention Administrator :
 - a. Makes a written record of the facts and circumstances that necessitated the Detainee's continued placement in Restrictive Housing;
 - b. Makes a written action plan describing how the correctional facility will transition the Detainee out of

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restricted housing at the earliest opportunity, including a projected time line; and

- c. Notifies the Health Services Administrator in writing that the Detainee continues to be placed in Restrictive Housing.

2. Transfer to Another Facility

Whenever the detention facility has custody of a Detainee with a Serious Mental Disability who is housed in Restrictive Housing, the county will take steps to have the Detainee transferred to a more appropriate facility.

B. QUARTERLY REPORTING

Every January, April, July, and October, the Facility shall submit a report to the County Commission **[and Legislative Council Service Library]** that contains the following:

1. The age, gender and ethnicity of every Detainee who was placed in Restrictive Housing during the previous three months, including every Detainee who is in Restricted Housing at the time the report is produced; and
2. The reason restricted housing was instituted for each Detainee listed in the report; and
3. The dates on which each Detainee was placed in and released from Restricted Housing during the previous three months.