

International  
**D** **P** **P**  
**RISON POLICY**  
**DEVELOPMENT**  
Instrument

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The International Centre for Criminal Law Reform and Criminal Justice Policy is pleased to provide you with this First Edition of the International Prison Policy Development Instrument, including the document *Towards Improved Corrections – A Strategic Framework*. We encourage you to use these documents for your research and policy development purposes as you see appropriate. Please ensure that all credits are appropriately acknowledged when using all or any of the information within the documents. The reproduction of these materials for commercial purposes is strictly prohibited.

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## **Towards Improved Corrections – A Strategic Framework**

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*Brian Tkachuk, Director Corrections Program*

*The International Centre for Criminal Law Reform and Criminal Justice Policy*

# **ABOUT THE INTERNATIONAL CENTRE FOR CRIMINAL LAW REFORM AND CRIMINAL JUSTICE POLICY**

The International Centre was established in Vancouver, British Columbia, Canada in 1991 at the initiative of the Canadian government. Its founding partners are the University of British Columbia, Simon Fraser University and the International Society for the Reform of Criminal Law. Affiliated with the United Nations, it is one of two interregional institutes in the United Nations Crime Prevention and Criminal Justice Programme. The Centre's mission is to promote the rule of law, human rights, democracy and good governance. It fulfills its purpose by contributing to local, national and international efforts to support law reform initiatives and to improve the administration of criminal justice. The Centre supports and contributes to the policies and activities of the United Nations Crime Prevention and Criminal Justice Programme, and assists with the achievement of Canadian Foreign Policy objectives.

The International Centre conducts research and policy analysis, undertakes the development and delivery of technical assistance programs and provides public information, consultation and education relating to the international field of criminal law, criminal justice policy and crime prevention issues. Further, the Centre facilitates the exchange of information and expertise to support the government of Canada in both its national and foreign policy objectives in the areas of crime prevention, criminal justice and human rights.

# INTRODUCTION

## The World Prison Situation In Brief

Many prison jurisdictions around the world are in a near state of crisis. In fact, the issue of prisons, and in particular, of prison overcrowding, as well as the resulting financial and inherent human rights problems, remains of great concern to all regions and most countries in the world. Few jurisdictions are immune from the phenomenon of growing prison populations which, according to the World Population List and World Population Brief<sup>1</sup>, has recently seen the number of individuals imprisoned surpass 8 ½ million worldwide<sup>2</sup>. With a world population of 6.1 billion this represents an average incarceration rate of 140 prisoners per 100,000 population. This increase, which throughout the past decade saw growth in some countries to be as high as 40%, cannot alone be attributed to higher rates in crime. Simply, around the world there is the belief that prison is preferable to any alternative; thus, the punitive element that characterizes this sanction remains the cornerstone of modern day correctional and penal systems. In spite of the proven efficiency and effectiveness of non custodial alternatives, harsher penalties in the form of longer prison sentences continue to be imposed.

Even more startling than this reliance on prisons and the imprisonment rates themselves are the conditions that have prevailed as a result. High prison populations have led to prison overcrowding which invariably leads to a legion of other problems. In many parts of the developing world the issue of prison overcrowding has led to conditions where prison officials are all too often unable to provide for the most basic of human needs for offenders including the provision of food, clean water, blankets and shelter, as well as basic health care. Not only men but women, juveniles and in some cases children are subject to abuse, either directly or as an unintended consequence of severely overcrowded facilities. These issues lead to more tension and violence amongst prisoners as well as violence against staff. Workplace safety, as well as the overall working and living conditions for staff are compromised. When overcrowding is present, staff/prisoner ratios fall, leading to less supervision and the inability to engage in constructive programs and activities conducive to reintegration. With all of these prevailing factors, the non observance of most international and regional standards has become the norm rather than the exception.

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<sup>1</sup> The World Population List was first published in 1999, the Second Edition appearing in 2000 - Roy Walmsley, Research Findings Nos 88 and 116. Home Office Research, Development and Statistics Directorate, London UK. The World Prison Brief is a development of the above and appears on-line ([www.prisonstudies.org](http://www.prisonstudies.org)); it is produced at the International Centre for Prison Studies, King's College, London.

<sup>2</sup> Includes pretrial detainees (remand) as well as those having been convicted of an offence.

# International Centre for Criminal Law Reform and Criminal Justice Policy Corrections Program

Mindful of the pressing need to bring about reform in the administration of justice, which would in turn serve to address the issue of prison overcrowding and its inherent human rights abuses, the International Centre for Criminal Law Reform and Criminal Justice Policy embarked on the development of a co-operative program of work with the Correctional Service of Canada. This work builds on two earlier international symposia on the Future of Corrections<sup>3</sup> and promotes the use of a strategic approach to the implementation, in the field of corrections, of recognised human rights and other criminal justice standards and norms. The emphasis is on the provision of technical assistance to countries that request it.

The Centre's current activities and program of work in the area of corrections reflect priorities that are identified through a series of national and international consultations conducted on an annual basis. These consultations reveal not only the presence of a very real and urgent need for assistance in developing countries, particularly in Africa, Latin America and in parts of Asia, but also the near absence of a concerted effort on the part of developed countries to address this need. Priorities for technical assistance include staff development and training, management training, policy development, bail and/or pre-trial detention reform, conditions of youth in detention, community corrections and the promotion of public awareness and participation and of course activities to address the overriding issue of prison overcrowding. Many of the Centre's activities support efforts to implement non custodial alternatives, including the use of bail, community service, probation, parole and restorative justice approaches.

## Prison Policy Development

As noted earlier, the consultations revealed a number of areas where technical assistance in the area of corrections was required. Along with the pressing issue of prison overcrowding was the need for assistance in the area of policy development. This need was also confirmed during the course of visiting a number of correctional jurisdictions in various countries and regions of the world where, in some cases, prison policies were practically non-existent. In others they were severely limited or outdated and virtually inaccessible to staff let alone offenders or the public.

A sound policy framework is essential for the effective and efficient governance of any correctional jurisdiction. However, it is not enough to simply have policies. The policies must be based on the rule of law and be respectful of other international, regional and national standards for corrections and the protection of human rights. All employees and

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<sup>3</sup> *First International Symposium on the Future of Corrections, Ottawa 1991* - Sponsored by the Correctional Service of Canada and the Society for the Reform of Criminal Law; *Second International Symposium on the Future of Corrections, Popowo, Poland 1993* - Sponsored by the Correctional Service of Canada, the Polish Ministry of Justice and the International Centre for Criminal Law Reform and Criminal Justice Policy.

members of a Service must be familiar with policy as it relates to their professional conduct and the performance of their duties. Policies should also be open and accessible to not only staff members, but to offenders and members of the public. It is through the evaluation of our adherence to policy that we hold ourselves accountable and are held accountable by others.

The *International Prison Policy Development Instrument* has been designed as a tool to assist countries in their development and/or review of prison policies regardless of region or culture. It is of course recognized that the instrument may be of more value and relevance to developing countries, many of whose systems remain in a state of transition or progressive development.

The manual provides the basis for correctional policy development in six key areas including:

- Administration
- Case Management
- Inmates Rights
- Security
- Health
- Discipline

*Part one* for each of the six policy sections draws attention to applicable UN and other international standards such as the UN Standard Minimum Rules for the Treatment of Offenders, the Basic Principles for the Treatment of Prisoners and the Universal Declaration on Human Rights. Consistent with the formatting of *part one* and for ease of reference, *part two* of each section provides proposed policy for each of the areas. The policy may in some cases appear complete and prescriptive but it is not. Rather, it is a template and designed so that it can be modified or edited to be in compliance with and supportive of local legislation and consistent with local culture and needs. To facilitate its adaptation to a particular locale and negate the need to reproduce all of the documentation each manual is accompanied by an electronic version on CD.

Although the manual can be used to develop an entirely new set of prison policies it can also be used to conduct a review against existing policy or to conduct revisions to a particular policy area. There is no right or wrong way to use the instrument as it is limited only to the extent of the information provided therein.

## **Strategic Framework for Corrections**

In addition to the proposed policy and applicable references to International standards and instruments, the document entitled *Towards Improved Corrections, A Strategic Framework*, has been incorporated into the manual and is also included electronically on the CD. The Strategic Framework is the product of the two earlier mentioned international symposia on the future of corrections, the first held in Ottawa, Canada in 1991 and the second in Popowo, Poland in 1993.

As indicated within the document the intent of the strategic framework is to assist correctional organizations in defining their role within the criminal justice system. This involves:

- explaining what corrections is;
- defining what is meant by effectiveness in corrections;
- explaining what corrections can realistically achieve; and
- expressing the values that are vital to corrections in a democratic society.

This framework is not a set of precise, specific standards but a broad vision that will serve to guide developments in the field of corrections. Its aim is to inspire improvement in performance, not just change. As such, it should serve as a starting point for discussion. How the framework is used must be determined by each system that is in search of a better future. It can serve as a reminder of the opportunities for improvement and an impetus for action. Commitment to the values and principles contained therein will allow correctional systems to achieve significant progress and improvement.

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## **PART ONE: UN GUIDELINES**

### **A. STAFF MANAGEMENT**

#### **1. Corrections Director**

##### ***1.(a) Adult Facility Director***

*Standard Minimum Rules for the Treatment of Prisoners*<sup>1</sup>

###### *Rule 50*

1. The director of an institution should be adequately qualified for his/her task by character, administrative ability, suitable training and experience.
2. He/she shall devote his/her entire time to his/her official duties and shall not be appointed on a part-time basis.
3. He/she shall reside on the premises of the institution or in its immediate vicinity.
4. When two or more institutions are under the authority of one director, he/she shall visit each of them at frequent intervals. A responsible resident official shall be in charge of each of these institutions.

###### *Rule 51*

1. The director, his/her deputy, and the majority of the other personnel of the institution shall be able to speak the language of the greatest number of prisoners or a language understood by the greatest number of them.

##### ***1.(b) Juvenile Facility Director***

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>2</sup>

###### *Rule 86*

The director of a facility should be adequately qualified for his/her task, with administrative ability and suitable training and experience, and should carry out his/her duties on a full time basis.

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<sup>1</sup> First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 1955 as approved by the Economic and Social Council Resolution 663 (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

<sup>2</sup> General Assembly Resolution 45/113 of 14 December 1990.

## **2. Institutional Personnel- Selection/Training/Conduct**

### ***2.(a) Adult Facility Personnel***

#### **2.(a)(i) General**

##### *Standard Minimum Rules for the Treatment of Prisoners*<sup>3</sup>

###### *Rule 46*

1. The prison administration shall provide for the careful selection of every grade of the personnel, since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of the institution depends.
2. The prison administration shall constantly seek to awaken and maintain in the minds both of the personnel and of the public, the conviction that this is a social service of great importance; to this end all appropriate means of informing the public should be used.
3. To secure the foregoing ends, personnel shall be appointed on a full-time basis as professional prison officers and have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness. Salaries shall be adequate to attract and retain suitable men and women. Employment benefits and conditions of service shall be favourable in view of the exacting nature of the work.

###### *Rule 47*

1. The personnel shall possess an adequate standard of education and intelligence.
2. Before entering on duty, the personnel shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests.
3. After entering on duty and during their career, the personnel shall maintain and improve their knowledge and professional capacity by attending courses of in-service training organised at suitable intervals.

###### *Rule 48*

All members of the personnel shall at all times so conduct themselves and perform their duties as to influence the prisoners for good by their example and to command their respect.

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<sup>3</sup> *Supra*, note 1

*Rule 49*

1. So far as possible, the personnel shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers and trade instructors.
2. The services of social workers, teachers and trade instructors shall be secured on a permanent basis, without thereby excluding part-time or voluntary workers.

*Rule 51*

2. Whenever necessary, the services of an interpreter shall be used.

*Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*<sup>4</sup>*Principle 18*

Governments and law enforcement agencies shall ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions and receive continuous and thorough professional training. Their continued fitness to perform these functions should be subject to periodic review.

2.(a)(ii) Medical Personnel

see V HEALTH

2.(a)(iii) Provision of Female Personnel for Female Prisoners

see III INMATE RIGHTS AND TREATMENT OF PRISONERS, Section E 3

2.(a)(iv) Employee Code of Conduct*Code of Conduct for Law Enforcement Officials*<sup>5</sup>*Article 1*

Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

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<sup>4</sup> Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

<sup>5</sup> Adopted by General Assembly Resolution 34/169 of 17 December 1979.

*Commentary*

(a) The term “law enforcement officials” includes all officers of the law, whether appointed or elected, who exercise police powers, especially the power of arrest or detention.

(b) In countries where police powers are exercised by military authorities, whether uniformed or not, or by state security forces, the definition of law enforcement officials shall be regarded as including officers of such services.

(c) Service to the community is intended to include particularly the rendition of services of assistance to those members of the community whom by reason of personal, economic, social or other emergencies, are in need of immediate aid.

(d) This provision is intended to cover all violent, predatory and harmful acts, and to extend to the full range of prohibitions under penal statutes. It extends to conduct by persons not capable of incurring criminal liability.

*Article 2*

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

*Commentary*

The human rights in question are identified and protected by national and international law. Among the relevant international instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the Standard Minimum Rules for the Treatment of Prisoners and the Vienna Convention on Consular Relations.

*Article 3*

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duties.

*Commentary*

(a) This provision emphasises that the use of force by law enforcement officials should be exceptional. While it implies that law enforcement

officials may be authorised to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.

(b) National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorise the use of force which is disproportionate to the legitimate objective to be achieved.

(c) The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardises the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be promptly written to the competent authorities.

#### *Article 4*

Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

#### *Commentary*

By the nature of their duties, law enforcement officials obtain information that may relate to private lives or be potentially harmful to the interests and especially the reputation of others. Great care should be exercised in safeguarding and using such information, which should be disclosed only in the performance of duty or to serve the needs of justice. Any disclosure of such information for other purposes is wholly improper.

#### *Article 5*

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

#### *Commentary*

(a) This prohibition derives from the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, adopted by the General Assembly, according to which:

“[Such an act is] an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights [and other international human rights instruments].”

(b) The Declaration defines torture as follows:

“... torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.”

(c) The term “cruel, inhuman or degrading treatment or punishment” has not been defined by the General Assembly but should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental.

#### *Article 6*

Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

#### *Commentary*

(a) “Medical attention”, which refers to services rendered by any medical personnel, including certified medical practitioners and paramedics, shall be secured when needed or requested.

(b) While the medical personnel are likely to be attached to the law enforcement operation, law enforcement officials must take into account the judgement of such personnel when they recommend providing the person in custody with appropriate treatment through, or in consultation with, medical personnel from outside the law enforcement operation.

(c) It is understood that law enforcement officials shall also secure medical attention for victims of violations of law or of accidents occurring in the course of violations of the law.

#### *Article 7*

Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts.

#### *Commentary*

(a) Any act of corruption, in the same way as any other abuse of authority, is incompatible with the profession of law enforcement officials. The law must also be enforced fully with respect to any law enforcement official who commits an act of corruption, as governments cannot expect to enforce the law amongst their citizens if they cannot, or will not, enforce the law against their own agents and within their agencies.

(b) While the definition of corruption must be subject to national law, it should be understood to encompass the commission or omission of an act in the performance of, or in connection with, one's duties in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted.

(c) The expression "act of corruption" referred to above should be understood to encompass attempted corruption.

#### *Article 8*

Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violation of them.

Law enforcement officials who have reason to believe that a violation of the present Code has occurred or is about to occur, shall report the matter to their superior authorities and where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

#### *Commentary*

(a) This Code shall be observed whenever it has been incorporated into national legislation or practice. If legislation or practice contains stricter provisions than those of the present Code, those stricter provisions shall be observed.

(b) The article seeks to preserve the balance between the need for internal discipline of the agency on which public safety is largely dependent, on the one hand, and the need for dealing with violations of basic human rights, on the other. Law enforcement officials shall report violations within the chain of command and take other lawful action outside the chain of command only when no other remedies are available or effective. It is understood that law enforcement officials shall not suffer administrative or other penalties because they have reported that a violation of this Code has occurred or is about to occur.

(c) The term “appropriate authorities or organs vested with reviewing or remedial power” refers to any authority or organ existing under national law, whether internal to the law enforcement agency or independent thereof, with statutory, customary or other power, which reviews grievances and complaints arising out of violations within the purview of this Code.

(d) In some countries, the mass media may be regarded as performing complaint review functions similar to those described in subparagraph (c) above. Law enforcement officials may, therefore, be justified if, as a last resort and in accordance with the laws and customs of their own countries and with the provision of Article 4 of the present Code, they bring violations to the attention of public opinion through the mass media.

(e) Law enforcement officials who comply with the provisions of this Code deserve the respect, the full support and the cooperation of the community and of the law enforcement agency in which they serve, as well as the law enforcement profession.

## ***2.(b) Juvenile Detention Centre Personnel***

### ***2.(b)(i) General***

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)*<sup>6</sup>

#### *Rule 22*

1. Professional education, in-service training, refresher courses and other appropriate modes of instruction shall be utilised to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases.

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<sup>6</sup> General Assembly Resolution 40/33 of 29 November 1985.

2. Juvenile justice personnel shall reflect the diversity of juveniles who come into contact with the juvenile justice system. Efforts shall be made to ensure the fair representation of women and minorities in juvenile justice agencies.

*Commentary*

Professional qualifications are an essential element in ensuring the impartial and effective administration of juvenile justice. Accordingly, it is necessary to improve the recruitment, advancement and professional training of personnel and to provide them with the necessary means to enable them to properly fulfil their functions.

All political, social, sexual, racial, religious, cultural or any other kind of discrimination in the selection, appointment and advancement of juvenile justice personnel should be avoided in order to achieve impartiality in the administration of juvenile justice. This was recommended by the Sixth Congress. Furthermore, the Sixth Congress called on member states to ensure the fair and equal treatment of women and criminal justice personnel and recommended that special measures should be taken to recruit, train and facilitate the advancement of women personnel in juvenile justice administration.

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>7</sup>

*Rule 81*

Personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists. These and other specialist staff should normally be employed on a permanent basis. This should not preclude part-time or volunteer workers when the level of support and training they can provide is appropriate and beneficial. Detention facilities should make use of all remedial, educational, moral, spiritual, and other resources and forms of assistance that are appropriate and available in the community, according to the individual problems of detained juveniles.

*Rule 82*

The administration should provide for the careful selection and recruitment of every grade and type of personnel, since the proper management of detention facilities depends on their integrity, humanity, ability and professional capacity to deal with juveniles, as well as personal suitability for the work.

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<sup>7</sup> *Supra*, note 2

*Rule 83*

To secure the foregoing ends, personnel should be appointed as professional officers with adequate remuneration to attract and retain suitable women and men. All personnel of juvenile detention facilities should be continually encouraged to fulfil their duties and obligations in a humane, committed, professional, fair and efficient manner, to conduct themselves at all times in such a way as to deserve and gain the respect of the juveniles, and to provide juveniles with a positive role model and perspective.

*Rule 84*

The administration should introduce forms of organisation and management that facilitate communications between different categories of staff in each detention facility. This is intended to enhance cooperation between the various services engaged in the care of juveniles, as well as between staff and the administration, with a view to ensuring that staff directly in contact with juveniles are able to function in conditions favourable to the efficient fulfilment of their duties.

*Rule 85*

All personnel should receive such training as will enable them to carry out their responsibilities effectively, in particular, training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present Rules. The personnel should maintain and improve their knowledge and professional capacity by attending courses of in-service training, to be organised at suitable intervals throughout their career.

2.(b)(ii) Code of Conduct*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>8</sup>*Rule 87*

In the performance of their duties, personnel of detention facilities should respect and protect the human dignity and fundamental human rights of all juveniles, in particular as follows:

- (i) No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever.

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<sup>8</sup> *Supra*, note 2

- (ii) All personnel should rigorously oppose and combat any act of corruption, reporting it without delay to the competent authorities.
- (iii) All personnel should respect the present Rules. Personnel who have reason to believe that a serious violation of the present Rules has occurred or is about to occur, should report the matter to their superior authorities or organs vested with reviewing or remedial power.
- (iv) All personnel should ensure the full protection of the physical and mental health of juveniles, including protection from physical, sexual and emotional abuse and exploitation, and should take immediate action to secure medical attention whenever required.
- (v) All personnel should respect the right of the juvenile to privacy, and, in particular, should safeguard all confidential matters concerning juveniles or their families learned as a result of their professional capacity.
- (vi) All personnel should seek to minimise any differences between life inside and outside the detention facility which tend to lessen due respect for the dignity of juveniles as human beings.

## B. ADMISSIONS AND RECORDS

### 1. General

*Declaration on the Protection of All Persons from Enforced Disappearance*<sup>9</sup>

*Article 10*

1. Any person deprived of liberty shall be held in an officially recognised place of detention and in conformity with national law, be brought before a judicial authority promptly after detention.

### 2. Admissions Records

*Declaration on the Protection of All Persons from Enforced Disappearance*<sup>10</sup>

*Article 10*

2. Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to family members, their counsel or to any other person having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>11</sup>

*Rule 7*

1. In every place where persons are imprisoned, there shall be kept a bound registration book with numbered pages in which the following shall be entered in respect of each prisoner received:

- (i) Information concerning his/her identity
- (ii) The reasons for his/her commitment and the authority thereafter

No person shall be received in an institution without a valid commitment order of which the details have been previously entered in the register

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<sup>9</sup> Adopted by General Assembly Resolution 47/133 of 18 December 1992.

<sup>10</sup> Adopted by General Assembly Resolution 47/133 of 18 December 1992.

<sup>11</sup> *Supra*, note 1

*Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*<sup>12</sup>

*Principle 6*

Governments shall ensure that persons deprived of their liberty are held in officially recognised places of custody, and that accurate information on their custody and whereabouts, including transfers, is made promptly available to their relatives and lawyer or other persons of confidence.

**3. Retention of Prisoners' Property**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>13</sup>

*Rule 43*

1. All money, valuables, clothing and other effects belonging to a prisoner which he/she is not allowed to retain under the regulations of the institution, shall, on his/her admission to the institution, be placed in safe custody. The prisoner thereof shall sign an inventory. Steps shall be taken to keep effects in good condition.
2. On the release of the prisoner, all money and articles shall be returned to him/her except in so far as he/she has been authorised to spend money or send any such property out of the institution, or it has been found necessary on hygienic grounds to destroy any article of clothing. The prisoner shall sign a receipt for the articles and money returned to him/her.
3. Any money or effects received from outside shall be treated in the same way.
4. If a prisoner brings in any drugs or medicine, the medical officer shall decide what use shall be made of them.

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<sup>12</sup> Recommended by Economic and Security Council Resolution 1989/65 of 24 May 1989.

<sup>13</sup> *Supra*, note 1

#### 4. Juveniles

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)*<sup>14</sup>

*Rule 21*

1. Records of juvenile offenders shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the case at hand or other duly authorised persons.
2. Records of juvenile offenders shall not be used in adult proceedings in subsequent cases involving the same offender.

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>15</sup>

*Rule 6*

The Rules should be made readily available to juvenile justice personnel in their national languages. Juveniles who are not fluent in the language spoken by the personnel of the detention facility should have the right to the services of an interpreter free of charge whenever necessary, in particular during medical examinations and disciplinary proceedings.

*Rule 20*

No juvenile should be received in any detention facility without a valid commitment order of a judicial, administrative or other public authority. The details of this order should be immediately entered in the register. No juvenile should be detained in any facility where there is no such register.

*Rule 21*

In every place where juveniles are detained, a complete and secure record of the following information should be kept concerning each juvenile received:

- (i) Information on the identity of the juvenile
- (ii) The fact of and reasons for commitment and the authority therefor
- (iii) The day and hour of admission, transfer and release

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<sup>14</sup> *Supra*, note

<sup>15</sup> *Supra*, note

(iv) Details of the notification to parents and guardians on every admission, transfer or release of the juvenile in their care at the time of commitment

(v) Details of known physical and mental health problems, including drug and alcohol abuse

#### *Rule 22*

The information on admission, place, transfer and release should be provided without delay to the parents and guardians or closest relative of the juvenile concerned.

#### *Rule 23*

As soon as possible after reception, full reports and relevant information on the personal situation and circumstances of each juvenile should be drawn up and submitted to the administration.

#### *Rule 24*

On admission, all juveniles shall be given a copy of the rules governing the detention facility and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints, as well as the address of public or private agencies and organisations that provide legal assistance. For those juveniles who are illiterate or who cannot understand the language in the written form, the information should be conveyed in a manner enabling full comprehension.

#### *Rule 25*

All juveniles should be helped to understand the regulations governing the internal organisation of the facility, the goals and methodology of the care provided, the disciplinary requirements and procedures, other authorised methods of seeking information and of making complaints, and all such matters as are necessary to enable them to fully understand their rights and obligations during detention.

#### *Rule 26*

The transport of juveniles should be carried out at the expense of the administration in conveyances with adequate ventilation and light, in conditions that should in no way subject them to hardship or indignity. Juveniles should not be transferred from one facility to another arbitrarily.

## 5. Classification of Inmates

see II CASE MANAGEMENT

## C. INMATE FILES

### 1. General

*Declaration on the Protection of All Persons from Enforced Disappearance*<sup>16</sup>

#### *Article 10*

3. An official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, each state shall take steps to maintain similar centralised registers. The information contained in these registers shall be made available to the persons mentioned in the preceding paragraph, to any judicial or other competent and independent national authority and to another competent authority entitled under the law of the state concerned or any international legal instrument to which a state concerned is a party, seeking to trace the whereabouts of a detained person.

### 2. Juvenile Inmate Files

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>17</sup>

#### *Rule 19*

All reports, including legal records, medical records and records of disciplinary proceedings, and all other documents relating to the form, content and details of treatment should be placed in a confidential individual file, which should be kept up-to-date, accessible only to authorised persons and classified in such a way as to be easily understood. Where possible, every juvenile should have the right to contest any fact or opinion contained in his or her file so as to permit rectification of inaccurate, unfounded or unfair statements. In order to exercise this right, there should be procedures that allow an appropriate third party to have access to and consult the file on request. Upon release, the records of juveniles shall be sealed, and, at an appropriate time, expunged.

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<sup>16</sup> Adopted by General Assembly Resolution 47/133 of 18 December 1992.

<sup>17</sup> *Supra*, note

## D. TRANSFER OF FOREIGN PRISONERS

### 1. General Principles

*Declaration on the Protection of All Persons from Enforced Disappearance*<sup>18</sup>

#### *Article 8*

1. No state shall expel, return (“refouler”) or extradite a person to another state where there are substantial grounds to believe that he/she would be in danger of enforced disappearance.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the state concerned of a consistent pattern of gross, and flagrant or mass violations of human rights.

*Model Agreement on the Transfer of Foreign Prisoners*<sup>19</sup>

1. The social resettlement of offenders should be promoted by facilitating the return of persons convicted of crime abroad to their country of nationality or of residence to serve their sentence at the earliest possible stage. In accordance with the above, states should afford each other the widest measure of cooperation.
2. A transfer of prisoners should be effected on the basis of mutual respect for national sovereignty and jurisdiction.
3. A transfer of prisoners should be effected in cases where the offence giving rise to conviction is punishable by deprivation of liberty by judicial authorities of both the sending (sentencing) state and the state to which the transfer is to be effected (administering state) according to the national laws.
4. A transfer may be requested by either the sentencing or the administering state. The prisoner, as well as close relatives, may express to either state their interest in the transfer. To that end, the contracting state shall inform the prisoner of their competent authorities.
5. A transfer shall be dependent on the agreement of both the sentencing and the administering state, and should also be based on the consent of the prisoner.

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<sup>18</sup> *Supra*, note

<sup>19</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offences.

6. The prisoner shall be fully informed of the possibility and of the legal consequences of a transfer, in particular whether or not he/she might be prosecuted because of other offences committed before his/her transfer.

7. The administering state should be given the opportunity to verify the free consent of the prisoner.

8. Any regulation concerning the transfer of prisoners shall be applicable to sentences of imprisonment as well as to sentences imposing measures involving deprivation of liberty because of the commission of a criminal act.

9. In cases of the person's incapability of freely determining his/her will, his/her legal representative shall be competent to consent to the transfer.

## 2. Other Requirements

### *Model Agreement on the Transfer of Foreign Prisoners*<sup>20</sup>

10. A transfer shall be made only on the basis of a final and definitive sentence having executive force.

11. At the time of the request for a transfer, the prisoner shall, as a general rule, still have to serve at least six months of the sentence. A transfer should, however, be granted also in cases of indeterminate sentences.

12. The decision whether to transfer a prisoner shall be taken without any delay.

13. The person transferred for the enforcement of a sentence passed in the sentencing state may not be tried again in the administering state for the same act upon which the sentence to be executed is based.

## 3. Procedural Regulations

### *Model Agreement on the Transfer of Foreign Prisoners*<sup>21</sup>

14. The competent authorities of the administering state shall:

- (a) continue the enforcement of the sentence immediately or through a court or administrative order, or

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<sup>20</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

<sup>21</sup> *Supra*, note

(b) convert the sentence, thereby substituting for the sanction imposed in the sentencing state a sanction prescribed by the law of the administering state for a corresponding offence.

15. In the case of continued enforcement, the administering state shall be bound by the legal nature and duration of the sentence as determined by the sentencing state. If however, this sentence is, by its nature or duration, incompatible with the law of the administering state, this state may adapt the sanction to the punishment or measure prescribed by its own law for a corresponding offence.

16. In the case of conversion of sentence, the administering state shall be entitled to adapt the sanction as to its nature or duration according to its national law, taking into due consideration the sentence passed in the sentencing state. A sanction involving deprivation of liberty shall, however, not be converted to a pecuniary sanction.

17. The administering state shall be bound by the findings as to the facts insofar as they appear from the judgement imposed in the sentencing state. Thus, the sentencing state has the sole competence for a review of the sentence.

18. The period of deprivation of liberty already served by the sentenced person in either state shall be fully deducted from the final sentence.

19. A transfer shall in no case lead to an aggravation of the situation of the prisoner.

20. Any costs incurred because of a transfer and related to transportation should be borne by the administering state, unless otherwise decided by both the sentencing and administering states.

#### **4. Enforcement and Pardon**

##### *Model Agreement on the Transfer of Foreign Prisoners*<sup>22</sup>

21. The law of the administering state shall govern the enforcement of the sentence.

22. Both the sentencing and the administering state shall be competent to grant pardon and amnesty.

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<sup>22</sup> *Supra*, note

## E. INMATE DEATHS

see also III INMATE RIGHTS AND TREATMENT OF PRISONERS

### 1. General

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>23</sup>

#### *Principle 34*

Whenever the death or disappearance of a detained person occurs during his/her detention or imprisonment, an inquiry into the cause of death or disappearance shall be held by a judicial or other authority, either on his/her own motion or at the insistence of a family member or such a person who has knowledge of the case. When circumstances so warrant, such an inquiry shall be held on the same procedural basis whenever the death or disappearance occurs shortly after the termination of the detention or imprisonment. The findings of such an inquiry or a report thereon shall be made available upon request, unless doing so would jeopardise an ongoing criminal investigation.

*Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*<sup>24</sup>

#### *Principle 22*

Governments and law enforcement agencies shall establish effective reporting and review procedures for all incidents referred to in Principles 6 and 11.1. For incidents reported pursuant to these principles, governments and law enforcement agencies shall ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*

#### *Principle 34*

Whenever the death or disappearance of a detained or imprisoned person occurs during his detention or imprisonment, an inquiry into the cause of death or disappearance shall be held by a judicial or other authority, either on its own motion or at the instance of a

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<sup>23</sup> General Assembly Resolution 43/173 of 9 December 1988.

<sup>24</sup> *Supra*, note

member of the family of such a person or any person who has knowledge of the case. When circumstances so warrant, such an inquiry shall be held on the same procedural basis whenever the death or disappearance occurs shortly after the termination of the detention or imprisonment. The findings of such inquiry or a report thereon shall be made available upon request, unless doing so would jeopardise an ongoing criminal investigation.

## **2. Death of Juvenile Inmates**

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>25</sup>

### *Rule 57*

Upon the death of a juvenile during the period of deprivation of liberty, the nearest relative should have the right to inspect the death certificate, see the body and determine the method of disposal of the body. Upon the death of a juvenile, there should be an independent inquiry into the cause of death, the report of which should be made accessible to the nearest relative. This inquiry should also be made when the death of a juvenile occurs within six months from the date of his or her release from the detention facility and there is reason to believe that the death is related to the period of detention.

## **F. RELEASE OF INMATES**

*Declaration on the Protection of all Persons from Enforced Disappearance*<sup>26</sup>

### *Article 11*

All persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability to exercise their rights are assured.

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<sup>25</sup> *Supra*, note

<sup>26</sup> *Supra*, note

## **PART TWO: PROPOSED PRISON POLICY**

### **GUIDING PRINCIPLES OF CORRECTIONAL SERVICES**

The purpose of the correctional system is to contribute to the maintenance of a just, peaceful and safe society by:

- (a) carrying out sentences imposed by courts through the safe and humane custody and supervision of offenders; and
- (b) assisting the rehabilitation of offenders and their reintegration into the community as law-abiding citizens through the provision of programs in prisons and in the community.

The principles that shall guide the service in achieving the purpose referred to above are:

1. That the protection of society be the paramount consideration in the corrections process.
2. That the sentence be carried out having regard for all relevant available information including the stated reasons and recommendations of the sentencing judge, other information from the trial or sentencing process, the release policies and information obtained from victims and offenders.
3. That the service use the least restrictive measures consistent with the protection of the public, staff members and offenders.
4. That offenders retain the rights and privileges of all members of society, except those rights and privileges that are necessarily removed or restricted as a consequence of the sentence.
5. That staff members be properly selected and trained, and be given:
  - (a) appropriate career development opportunities,
  - (b) good working conditions, including a workplace environment that is free of practices that undermine a person's sense of personal dignity, and
  - (c) opportunities to participate in the development of correctional policies and programs.
6. That correctional policies, programs and practices respect gender, ethnic, cultural and linguistic differences and be responsive to the special needs of women, as well as to the needs of other groups of offenders with special requirements.
7. That offenders are expected to obey prison rules and conditions governing temporary absence, work release, parole and statutory release, and to actively participate in programs designed to promote their rehabilitation and reintegration.

8. That the service enhance its effectiveness and openness through the timely exchange of relevant information with other components of the criminal justice system, and through communication about its correctional policies and programs to offenders, victims and the public.

9. That the service facilitate the involvement of members of the public in matters relating to the operations of the service.

10. That correctional decisions be made in a forthright and fair manner, with access by the offender to an effective grievance procedure.

## **A. STAFF MANAGEMENT**

### **1. Training and Qualifications**

#### ***1.(a) Staff Training***

Management has the responsibility to ensure that all staff are trained to the required level.

##### 1.(a)(i) Prison Service Policy

The service shall have policies and procedures which address the following staff training issues:

- (i) Roles and responsibilities for those supervising staff members undertaking the training offered.
- (ii) The establishment of standards against which the section responsible for staff training can measure the performance of staff members on training courses.

##### *Discussion:*

The intent of the standard is to delineate the relative responsibilities of operational managers and the training section regarding the establishment of training programs and the supervision and evaluation of staff while engaged in training activities.

##### 1.(a)(ii) Training Information

The section of the prison service responsible for staff training shall circulate to all staff, at least annually, a description of available training and development programs and related policies.

The section responsible for staff training shall prepare and circulate to all staff, on a timely basis, descriptions of procedures and policies governing participation in in-service and out-of-service training and development programs.

### 1.(a)(iii) Standards Information

It shall be the responsibility of all supervisors/managers to ensure that staff have available to them all applicable legislation, regulations, policies, standards and procedures of the prison service which pertain to their jobs.

Each prison and administrative office shall develop and implement a strategy designed to ensure that all staff are aware of all applicable organisational goals, standards, policies, and procedures.

### 1.(a)(iv) Upgrading

Management shall identify and communicate to the section responsible for staff training requirements for upgrading arising from legislative decisions, policy formulations and changes.

The section responsible for staff training shall develop and propose strategies for ensuring the immediate upgrading of staff in response to new legislative/policy initiatives.

### 1.(a)(v) Training Supervisors

All persons newly appointed to positions involving supervision of personnel shall undertake, as a component of basic requisite management training, a program assessing the effective administration of both the master and relevant component contracts/labour agreements.

### **1.(b) Staff Performance - Evaluations/Appraisals**

The prison shall ensure that periodic staff performance evaluations/appraisals are conducted. Evaluations/appraisals shall be based upon policy, standards and other applicable performance indicators. Further, the prison service shall implement:

- (a) explicit performance expectation guidelines and indicators for each job classification across the service; and
- (b) measures to encourage consistent application of criteria by supervisors/managers in the conduct of evaluations/appraisals.

#### *Discussion:*

The intent of the standard is to ensure that all incumbents in each job classification are evaluated/appraised in a comparable and consistent manner across the organisation.

Written appraisals/evaluations of performance shall be completed by the supervisor on all newly-employed staff members upon completion of the first, fourth and sixth month of initial probationary employment.

## **2. Staff Files**

### ***2.(a) Training and Development Records***

The prison service shall ensure that all training and development activities on the part of all staff members are recorded. The record shall be characterised as follows:

- (i) An individual training and development history for each staff member employed by the organisation
- (ii) The inclusion of all employment-related educational and training events in which each staff member has participated
- (iii) The identification of all jobs/positions/classifications held by each staff member while employed by the institution
- (iv) The inclusion of details pertaining to each special project/secondment/acting capacity/unusual or extraordinary contribution that illustrates an employee's capacity to accept increased responsibilities or new assignments in the future

### ***2.(b) General Files***

The prison service shall have policies and procedures to govern the creation and retention of files containing training and development records and other staff information. Policies shall address the following issues:

- (i) Circumstances in which files on staff members are to be opened
- (ii) The content of various types of authorised files
- (iii) Procedures for ensuring accuracy and completeness of personnel files
- (iv) Circumstances for closing of personnel files
- (v) The need for and types of files maintained in the public service outside the branch
- (vi) Access to files, authority to grant access and procedures for amending and correcting files

*Discussion:*

The intent of the standard is to limit the creation of unnecessary files and to ensure the completeness and accuracy of file content.

### ***2.(c) Inactive Files***

The prison service shall have policies and procedures which specify:

- (i) The maximum periods of retention before destruction of various types of inactive individual subject files
- (ii) The types or categories of information (if any) which may be retained by the service subsequent to destruction of inactive individual subject files
- (iii) Any types or categories of information which must be stricken from inactive

individual subject files prior to the passage of the full period of inactivity before scheduled file destruction

(iv) The manner in which files that have been inactive for a specified period of time are to be partially or fully destroyed or otherwise removed from routine access

### **3. Circulation of Prison Policy and Modifications**

Prison service policy shall be issued in a style and format that clearly distinguishes the document(s) as service policy and organises the statements for inclusion in an ongoing compilation of current policy.

#### *Discussion:*

The intent of the standard is to ensure that policy directives are immediately distinguishable as such and lend themselves to collection, retention and quick access and retrieval.

Changes and modifications in prison policy shall be circulated to all affected staff members at least two calendar weeks prior to the implementation of the change.

All staff members shall be accountable for knowing and complying with all applicable organisational goals, standards, policies and procedures.

### **4. Dress Regulations and Staff Department**

#### **4.(a) Preamble**

Prison personnel are professionals within the justice system and are required to contribute a high standard of expertise and skill in the performance of their duties. It is, therefore, in the view of the service, incumbent upon employees to present themselves in appearance and through performance, in a manner that reflects this expertise and skill.

The dress regulations contained within this section are issued to cover both male and female uniformed officers. They are designed to cover general as well as specific items of apparel issued to individual officers.

#### **4.(b) Uniformed Staff**

##### 4.(b)(i) General

Officers shall wear full seasonal dress while on duty both on and off the institutional property unless otherwise instructed by the prison warden of the centre.

Officers who are to attend court or coroner's inquests as a result of an incident arising from the performance of their duties are to appear in uniform.

When off duty, no part of the issue uniform will be worn, except for travel to and from the work location.

All officers required to return to the institution in an emergency will report in uniform, unless otherwise instructed.

Officers who choose to wear civilian clothes to work and change to seasonal dress may do so but must be changed into uniform at commencement of shift. Under no circumstances may a staff member wear combined civilian and uniform issue clothing while on duty.

Officers shall keep their uniforms neat, clean and in good repair.

Officers may not alter the original style of their uniforms unless approved in advance by the director.

The wearing of personal accessories such as jewellery is not allowed unless authorised by the director.

#### 4.(b)(ii) Hair Style

Officers' hair styling should be of such style and length as to comply with health and safety regulations and be in keeping with the standards of their profession. Male employees' hair shall not exceed collar length.

#### 4.(b)(iii) Beards/Moustaches

Beards and moustaches may be worn provided they are kept clean, neat and groomed, and do not exceed one inch in length. Staff whose duties require the use of breathing apparatus shall remain clean-shaven where the mask or respirator seals with the face, in compliance with industrial health and safety regulations.

#### 4.(b)(iv) Caps (Specific to type of cap/beret)

The cap will be worn level on an officer's head.

No foreign material such as coloured paper or cloth is allowed behind the cap badge.

Wires or stiffeners will not be removed or bent.

The cap badge will be worn in the centre of cap, as indicated by the seam on the cap, with the bottom edge of the badge just below the inside of the top edge of the cap strap, as indicated by the badge's bottom edge shape.

The cap strap and peak must be kept tight and clean.

Uniform caps will not be worn with blazers.

#### 4.(b)(v) Ties

Officers will wear issue ties only.

Ties will be worn snug with top button of shirt fastened.

When in uniform, other than summer issue, officers are required to wear their ties when:

- (a) dealing with the public at their regular work stations (e.g. reception, visiting),
- (b) outside the prison,
- (c) in public, and
- (d) attending special events, including training programs.

#### 4.(b)(vi) Shirts

Shirts will be issue only.

Shirt pockets will be buttoned at all times.

When an officer is in summer dress (where applicable), shirts may be worn with only the top button unfastened with no undershirt visible.

#### 4.(b)(vii) Blouses

Blouses will be issue only.

Blouses will be worn “tucked in”.

Blouses will be worn with the top button fastened at all times.

#### 4.(b)(viii) Patrol Jackets

Patrol jackets will be worn at times and in areas specified by the prison warden.

Patrol jackets will be done up when worn.

Officers are cautioned against the practice of loading patrol jackets or blouse and shirt pockets with articles which detract from their appearance.

4.(b)(ix) Blazers

Civilian attire is not to be worn with issue blazers.

Summer issue shirts, when worn with the blazer are to be worn with the shirt collar over the lapel of the jacket.

4.(b)(x) Skirts/Slacks/Trousers

Shirts, slacks and trousers are to be worn with issue belt only.

4.(b)(xi) Footwear

Footwear is to be issue only, except when a qualified medical practitioner or the occupational health department recommend alternate footwear.

Issue footwear is to be shined, in good repair and neatly laced and tied.

Socks are to be issue.

4.(b)(xii) Insignia

Only approved rank insignia is to be worn in the manner directed by the commissioner of prisons.

***4.(c) Non-Uniformed Staff***4.(c)(i) Civilian Clothing

Some prison personnel working in locations such as community prisons, may be authorised to wear civilian clothing.

4.(c)(ii) Clothing

Officers shall keep their clothing neat, clean, and in good repair.

Officers who attend court or coroner's inquests as a result of an incident arising from the performance of their duties, are to appear in the appropriate attire as follows:

(a) Male staff shall wear:

- (i) Sports jacket and dress slacks, with shirt and tie, or
- (ii) Business or leisure suit with shirt and tie.

(b) Female staff shall wear:

- (i) Business suit, or
- (ii) Dress, or
- (iii) Dress/slacks/skirt and appropriate top.

Attire when in public or on the job site may be more casual, but appropriate to the profession. For example, male staff may wear slacks and a shirt with or without a tie, and female staff may wear slacks or a skirt with an appropriate top.

#### 4.(c)(iii) Hair Style

Officers' hair styles should be of such style and length in keeping with the standard of their profession.

#### 4.(c)(iv) Beards/Moustaches

Beards and moustaches may be worn provided they are kept neat and groomed.

#### ***4.(d) Staff Training Officers***

Staff training is an extension of the work place focusing on the professional development of employees often in conjunction with colleagues or related professions. Consequently, prison staff trainers must dress according to the same standards of dress as those employees attending the training program.

Where both uniformed and non-uniformed officers are attending, the director of staff development will determine the dress for trainers.

Uniforms will be issued to training staff and must be worn in accordance with:

- (i) The regulations governing prison personnel above
- (ii) When on duty, at times and on occasions as directed by the director of staff development

## **B. ADMISSIONS AND RECORDS**

### **1. Reception of Inmates**

#### ***1.(a) Documentation***

A person who is sentenced, committed or transferred to a penitentiary may not be received into any penitentiary and any designation of a particular penitentiary if the warrant of committal is of no force or effect.

It is the ultimate responsibility of the prison warden to ensure that no inmate is admitted into custody unless one of the following legal documents is produced at the time of admission:

- (i) Warrant for committal
- (ii) Warrant remanding an inmate
- (iii) An order issued by a judge or by the court of appeal directing a person be held in custody
- (iv) As a warrant issued by the parole board or a judge, suspending, revoking or forfeiting a period of parole
- (v) An order issued by an immigration officer directing a person be held in custody pending an inquiry into the person's citizenship or deportation to the country of origin
- (vi) An order issued by a county court judge, supreme court judge, court of appeal or the supreme court of the country committing a person to a prison

An appeal court order has the same force as a warrant of committal. The appeal court order replaces the original warrant of committal. Sentences must be recalculated as a result of the appeal.

### ***1.(b) Warrant of Committal***

This warrant is also called a 'Detention Order'. It can hold an inmate in custody for an indefinite period of time.

A person who is sentenced, committed or transferred to a penitentiary may not be received into any penitentiary, and any designation of a particular penitentiary, if the warrant of committal is of no force or effect.

### ***1.(c) Warrants Naming a Specific Correctional Centre***

Although the courts may order an offender to be committed to a specific prison, the prison service has the authority to:

- (a) receive inmates from any part of the country in any prison, and
- (b) transfer inmates confined in one prison to another.

When a warrant of committal ordering the accused into a specific prison is received by a prison other than the one named in the warrant, that prison shall nevertheless admit the inmate and hold him, or her, pending an initial classification decision by a classification officer. The prison admitting the inmate shall enter the necessary information on the inmate's transfer log transferring the inmate from the prison named in the warrant to the admitting prison.

## **2. Interpretation of Warrants**

### ***2.(a) General***

The following steps should be taken when making an interpretation:

1. Sort all warrants by the date of sentencing.
2. Check each warrant of committal and find any time to be satisfied in default of payment of a fine.
3. Check the offence code on each warrant of committal; note any sentences of escaping lawful custody.
4. Check the date of conviction on the warrant of committal.
5. Examine the first warrant and determine if more than one sentence is indicated; determine the concurrent or consecutive nature of each sentence.
6. If the sentences are not clearly stated as consecutive terms of incarceration, they must always be interpreted as concurrent terms. Clarification should always be sought from the court concerning the intent of sentence.

The following is a basic check to aid in determining the validity of a warrant:

- (i) Is the person named on the warrant the person actually brought in by the Sheriffs?
- (ii) Offence and sentence:
- (iii) Is the warrant dated properly on the bottom?
- (iv) Is there a signature of the court clerk or justice of the peace or judge?

### ***2.(b) Ambiguous Warrants***

When a warrant of committal is received by a prison that:

- (a) prescribes a sentence which appears to be contrary to the statutes, or
- (b) prescribes a sentence in which the intent of the court in relation to other warrants held on an inmate is ambiguous, or
- (c) is otherwise ambiguous, clarification from the court issuing the document should be obtained.

Problems with interpretation of documents are usually not related to a single warrant but more frequently involve a number of warrants that have been issued by various courts over a period of time.

### ***2.(c) Interpreting Warrants of Committal Where a Fine is Imposed***

A warrant of committal with a fine usually has a 'time to pay' clause and thus the inmate is brought into custody. Where the time to pay has not expired, the records officer shall ensure that it is noted on the warrant of committal or on a separate form that the inmate has waived his/her time to pay.

A sentence imposed in default of a fine payment commences on the date the warrant of committal is executed. No time served prior to the date of execution counts as part of the term of imprisonment.

Where a term of imprisonment is imposed in default of payment of a fine, the term shall, upon payment of a part of the fine whether the payment was made before or after the issue of a warrant of committal, be reduced by the number of days that bears the same proportion to the number of days in a term as the part paid bears to the total penalty.

An inmate shall receive full credit towards his/her fine payment for each day or portion thereof spent in custody, including the day of release. An inmate does not pay for his/her day of release.

Where an inmate has more than one warrant with a fine, the amount of fines shall be considered to be consecutive, while the time, unless it is specified consecutive, is calculated as concurrent.

#### ***2.(d) Remand Warrant***

The remand warrant can only legally detain the inmate until the date he/she is remanded to. At that date the person must go before the court for another disposition.

#### ***2.(e) Advice After Committal for Trial***

After a person has been committed for trial, the court will often send the above order. This is not a document that provides legal custody. Its purpose is to inform the prison that the inmate has been committed for trial.

#### ***2.(f) Warrant of Committal Upon Conviction***

This warrant usually lists the sentence the inmate received at court. Attached to the back of the warrant, or listed on the front of it, is the information which details the account of the offence.

This warrant is also used in fine non-payment. It is important to note that the time to pay has expired or has been waived and the warrant may also have to be executed.

#### ***2.(g) Order for the Attendance of the Inmate***

An order for the attendance of an inmate is not a warrant; it is only a letter specifying the date when an inmate is to appear in court. This order is often referred to as a 'spring' order.

#### ***2.(h) Executing Warrants***

In some instances, records officers must execute a warrant. The proper procedure for this is:

1. Tell the inmate what you are doing and your authority for doing so.
2. Read the entire warrant to the inmate.
3. Ensure the inmate understands what you have read.
4. Sign the bottom of the warrant- Executed By- your position title, date, and time of execution.
5. Check the box provided on Part 3, indicating that the warrant has been executed and return that copy to the originating court registry.

### ***2.(i) Judge's Letter Interpreting Warrants***

A judge's letter cannot vary a warrant of committal. The letter may serve at most to clarify any ambiguity in the warrant. Where it is clear that a judge's letter purports to vary a warrant, the judge should be requested to furnish the prison with an amended warrant.

### ***2.(j) Request for Copies of Warrants***

When lawyers request copies of committal warrants for an inmate, there shall be no legal bar to the institution supplying such copies to the lawyer.

## **3. Duties of Records Supervisors**

Under the supervision of the prison warden, the officer in charge of the records department plans, executes, controls and administers the policy herein to ensure that inmates are legally incarcerated and detained in custody.

The officer in charge of records shall ensure that upon admission and release, all committal documents are in order.

The officer in charge of records shall ensure that staff assigned to records receive training in the use and the location of case files or other instruments.

The officer in charge of records shall ensure that all documents and dates are entered correctly into an appropriate system and shall verify the accuracy of dates calculated.

During imprisonment, records officers shall ensure the legality of the detention of the inmate by updating and revising the discharge date according to:

- (i) Additional warrants and/or court orders
- (ii) Administrative decisions regarding loss of remission
- (iii) Administrative decisions regarding failure to earn remission
- (iv) Administrative decisions restoring forfeited remission

- (v) Other information affecting the calculation of sentence (escape, parole)

The records officer shall ensure for those inmates awaiting trial:

- (i) The bail review report is forwarded to the court before the time period elapses
- (ii) All awaiting trial warrants are properly entered in the system
- (iii) Upon sentence, the records officer shall ensure all related awaiting trial information is cleared from the system

#### **4. Records Procedures**

##### ***4.(a) Medical Certificate***

The prison warden may refuse to admit an inmate into custody unless there is, for that inmate, a certificate of a duly qualified medical practitioner certifying:

- (i) The state of health of the person
- (ii) That the inmate is fit for transfer
- (iii) That the inmate is free from any infectious or contagious disease

##### ***4.(b) Time of Admission***

An inmate shall be admitted to a prison between the hours of 0800 and 1600 Monday through Saturday, excepting holidays, and at such other times as authorised by the prison warden.

##### ***4.(c) Search of Inmate***

On admission of an inmate to a prison, the inmate and his/her possessions shall be searched by an officer of the same gender. When in the opinion of the officer an inmate possesses drugs, weapons, or any other objects which may threaten the management, operation, discipline, or security of a prison, the officer shall take possession of the object, clearly mark its rightful owner and hold it in a secure place identified for such a purpose.

##### ***4.(d) Case File Checks***

All inmates being admitted to a prison shall have their names searched through the service case file to determine:

- (i) Previous prison service number that can be reissued if the inmate is found on the system
- (ii) Custody status (i.e. a.w.o.l., parole suspension, federal or provincially sentenced inmate) which should be conducted by a trained records officer

An inmate should only be on one prison count. Where it is found that he/she is on another prison's count, prison personnel should be contacted so they can release the inmate from their

count. The prison shall then forward all documents. Receiving prison personnel should update the transfer log transferring the inmate to their facility.

#### ***4.(e) Inmate Numbers***

Each prison will be provided with a series of numbers to each institution. Where it is determined that an inmate has never been held in a prison, the records officer may assign the inmate a number from this list. Where a records officer determines that an inmate number has been duplicated, this should be reported immediately to the officer in charge of records.

#### ***4.(f) Hospital Coverage***

When a duly qualified medical practitioner admits an inmate to a hospital as an inpatient, the prison shall not assume legal custodial responsibility of the inmate until receiving the appropriate legal documentation.

#### ***4.(g) Immigration Query***

Upon admission to a prison, the records officer must determine the citizenship of the inmate. If the birthplace is outside of the country, and he/she does not have local citizenship, the records officer should contact the nearest immigration office requesting verification of citizenship. A copy of the warrant should be sent with a covering letter outlining the term of imprisonment, earliest release date, and the date and place of birth. If the inmate is deportable, immigration will issue a deportation order. Once a deportation order is received it should be entered into the system.

#### ***4.(h) Fingerprint Record of Sentenced Inmates***

A procedure should be implemented whereby a copy of the fingerprint record should accompany the warrant of committal upon admission of an inmate sentenced to imprisonment for an indictable offence. This must be achieved through the cooperation of the court clerk, crown counsel, sheriffs and the various police forces.

If on admission, or within seventy-two hours, a fingerprint record has not been received, the records office of the police agency which has jurisdiction, should be contacted and a copy of that record requested.

If the inmate is subsequently transferred to a prison, the fingerprint record is to accompany the warrant of committal.

#### ***4.(i) Criminal Record of Inmates Awaiting Trial***

A similar understanding should be reached regarding the transfer and admission of persons awaiting trial. When an inmate is turned over to the sheriff services, they should be advised by the police if the inmate is considered dangerous to him/herself or others, likely to attempt

escape, mentally ill, etc., when known, so that the necessary precautions can be taken by sheriff services. Sheriff services should alert the prison when delivering the inmate accordingly. If the inmate is remanded in custody, a copy of the criminal record should be conveyed by the police to the prison as soon as it is available.

## **5. Information to Inmates upon Admission**

Each prison shall make available the following information to each inmate upon admission:

- (i) A copy of the prison rules and regulations
- (ii) Information pertaining to religious programs and access thereto

In addition, each sentenced inmate shall be made aware, upon admission, of:

- (i) Current parole criteria and application procedures
- (ii) Current temporary absence criteria and application procedures

Any change in the rules and regulations shall be immediately conveyed in writing to all inmates or posted on a bulletin board by the officer in charge.

Where access to the information obtained by the service is requested by the offender in writing, the offender shall be provided with access to such information.

Where an offender who has been given access to information by the service believes that there is an error or omission therein,

- (a) the offender may request the service to correct the information; and
- (b) where the request is refused, the service shall attach a notation to the information indicating that the offender has requested a correction and setting out the correction requested.

## **6. Issuing of Clothing and Bedding**

Inmates arriving during normal operating hours shall be issued clothing and bedding.

Inmates arriving during silent hours will be issued bedding and will draw clothing at institutional services during the next normal operating day.

## **7. Inmate Personal Effects**

### **7.(a) General**

“Personal effects” means the properties rightfully possessed by an inmate or properties delivered in his/her name to a prison. The following guidelines will ensure the security of and respect for a prisoner’s personal belongings.

### ***7.(b) Acceptance of Inmate Effects***

A prison shall accept whatever personal effects are in the possession of an inmate upon admission to the centre.

Upon admission to a prison, an inmate's personal clothing shall be stored.

Items of value which are considered desirable and subject to possible misplacement or removal, such as jewellery, money, etc., shall be stored in a separate secure place or preferably sent home at the inmate's personal expense.

Every effort shall be made to send home or to another location specified by an inmate, large, bulky, difficult or impossible to store articles, at the inmate's personal expense.

Unnecessary items received by mail or brought in by visitors shall be returned or refused.

### ***7.(c) Retention of Personal Effects by Inmates***

Inmates shall be allowed to retain in their possession articles of personal property when that possession does not represent a security risk or management problem for the prison.

### ***7.(d) Personal Effects Forms***

Personal effects shall be recorded in the following manner:

- (i) The form shall identify the inmate, the prison of admission, and the date of admission
- (ii) All personal effects being placed into storage at the time of initial admission shall be recorded
- (iii) Storage location will be indicated, for those centres with more than one location
- (iv) The condition of the items shall be recorded and will provide some information should items be lost and a claim submitted
- (v) Jewellery and other valuables will be described and the estimated value given by the inmate will be recorded

Where there are probable grounds to believe an inmate has dangerous contraband contained within his/her personal effects, a staff member will search all of the inmate's effects, in the presence of the inmate. All effects containers will be sealed by the officer and witnessed by the inmate, both of whom will sign their names over the seal in legible hand writing. Effects containers will be tagged for identification and placed in secure storage. They will be recorded, for example, as one sealed box.

After all effects have been recorded, a line will be drawn through the unused lines. The inmate and staff will sign below, indicating the listing to be complete and accurate.

Items added to the inmate's effects after he/she is in custody shall be recorded. Additions will only be made where it is essential that the inmate have the item for release, and the prison warden has given written approval to the item being essential. When the item is brought to records, the inmate will be present to sign for receipt to the same or he/she will sign a written request to add this to his/her effects (attached to form).

Items that the inmate will keep in his/her possession shall be recorded. The inmate and staff shall record their signatures accordingly, thereby acknowledging that the inmate has been told he/she is fully responsible for the items and absolving the prison service of liability. When an inmate is allowed to receive an item from storage into his/her possession, he/she will apply in writing to the warden. If the warden approves, he/she will sign the request and it will be sent to records and attached to the form. The staff member releasing the item to the inmate will record this and sign accordingly.

When an inmate is transferred to another prison, a form will be forwarded in the warrant file. The sending prison will keep a photocopy for possible future reference. The prison transferring the inmate will complete a line of information and have the inmate also sign that all personal effects are accounted for. The receiving prison, upon admitting the inmate, will check effects against the items recorded and complete the next line of information with staff and inmate signatures. Any discrepancies should be noted in writing by admitting staff to their supervisor for action.

Hobby materials purchased or produced while in custody will not be included in personal effects at the time of transfer between districts. They will be recorded on the appropriate form. Each prison warden will be responsible for developing his/her own policy on storage and disposal of hobby materials and products for inmates transferred away from the district.

Once an item has been entered on the form, the entry shall not in any way be altered.

All temporary release of items, return of items or disposition of items shall be recorded in the appropriate section.

When an inmate wishes to release any of his/her effects to someone in the community, he/she will inform the prison warden of this in writing. The approved request will be sent to records, and the release of effects recorded. The visitor will sign a receipt accordingly.

When an inmate is transferred between prisons, the transferring centre shall assume responsibility for the movement of all effects not taken by the escort or inmate.

The transferring or discharging centre shall appropriately compensate for personal effects that the prison is responsible for which cannot be produced on transfer or discharge from custody of an inmate.

### ***7.(e) Inmates Transported Long Distances for Court***

An inmate transported a long distance (e.g. isolated area) to appear in court and whose continued custody is not required should he/she be released at court, may be given his/her personal effects and monies upon his/her departure.

***7.(f) Storage of Inmate Effects on Discharge/Escape/Transfer***

The prison warden shall be responsible for storing in a safe place, personal effects left by an inmate on discharge/escape/transfer, or for other such reasons. Some will be forwarded at the inmate's request and expense, if expense is incurred, where it is known that the inmate is in legal custody, or has been discharged from custody.

Personal effects retained by the inmate and left in the unit or elsewhere by reason of release as mentioned above, are the responsibility of the inmate. However, the prison will collect available effects and inventory.

***7.(g) Seizure of Inmate Effects by Police or Other Agencies***

When the police or other agencies request to see the personal property of an inmate who is admitted to a prison, or wish to take possession of certain personal property in respect of their investigation, or to produce property as evidence at an ongoing trial, a search warrant shall be requested to cover such a seizure.

***7.(h) Disposal of Abandoned Clothing and Personal Effects***

Any items of clothing or any personal effects not claimed by an inmate within six months of the day of his/her release, transfer or escape, become the property of the crown in right of the province/state.

The prison warden shall ensure that each inmate, upon admission to the centre, formally acknowledges that any property he/she abandons within the definition of the prison rules and regulations is subject to disposal.

The prison warden has the responsibility to dispose of all other items of the inmate's property, subject to the following considerations:

- (i) If his/her estimate of the total face value of the property exceeds five hundred dollars, then the prison warden shall, before ordering disposal of the property, make reasonable endeavours to contact the inmate (e.g. by double registered letter to last known address) in order to return it to the inmate
- (ii) If there is amongst the personal effects, any document or item which is likely to represent a considerable financial loss or other hardship to the inmate or a third party if disposed, then the prison warden may determine if more exhaustive endeavours, such as the placing of a newspaper advertisement, are appropriate in order to contact the inmate

### ***7.(i) Need to Document Actions Taken***

The prison warden must ensure that all actions taken to return clothing and personal effects to an inmate are appropriately documented and that, prior to disposal, an itemised list is placed in the inmate's file. The disposal list shall be signed and dated by the prison warden before a witness who shall also sign. The list shall include:

- (a) the condition and estimated face value of each item,
- (b) a full description of each item by colour, make, serial number (where applicable), and
- (c) the manner in which each item was disposed.

If ownership of any inmate property subject to disposal is unknown, then the list shall be placed in a central file at the prison.

If, in the opinion of the prison warden, the property abandoned by an inmate is of no intrinsic value, then the warden may order that:

- (a) the property be destroyed, or
- (b) where clothing or footwear is involved, that it be furnished to other inmates who, upon discharge, are in need of adequate clothing and footwear.

If, in the opinion of the prison warden, the property abandoned by an inmate is of some intrinsic value, although not of considerable value, and reasonable efforts to contact the inmate have produced no result, then the prison warden may order that the property:

- (a) be donated to a charitable organisation, or
- (b) be sold through a consignment store or locally accredited auction, and the monies received deposited to the account of the centre's inmate welfare fund.

## **C. INMATE FILES**

### **1. General**

The prison warden of each prison shall be responsible for the establishment and preparation of inmate files and shall ensure inmate files are properly maintained, stored and/or transferred.

In each case, a minimum of three files shall be established on each inmate and housed as follows:

<u>File Name</u>	<u>Located</u>
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- (a) Warrant file Records office

(b) Medical file Health care centre within the prison  
(responsibility of medical staff)

(c) Progress file Living units, sentence management unit

Each of the three inmate files will contain (generally) the following information/documentation:

- (a) Warrant File
- (i) Identification card and custody report with photo  
(record sheet if using the manual system)
  - (ii) All original warrants and custody documents including:  
probation orders, parole certificates, temporary absence  
authorisation permits with original signatures, escape forms,  
transfer log, remission awards and infractions
  - (iii) Personal effects records
- (b) Medical File
- (i) Identification card and custody report  
(record sheet if manual system)
  - (ii) Intake medical and all medical records including dental
  - (iii) Psychological evaluations and related reports
- (c) Progress File
- (i) Identification card, with photo
  - (ii) Custody report
  - (iii) Classification report
  - (iv) Case file history
  - (v) Pre-sentence report
  - (vi) Remission awards
  - (vii) Temporary absence/parole applications
  - (viii) Community assessments
  - (ix) General correspondence
  - (x) Mini progress file with activity records and progress log  
sheets recording staff comments on work, behaviour, and  
attitude, including transfer and closing summaries

(xi) Case management plan

A standardised file jacket of heavy gauged material will be utilised for all files. The progress file will use fasteners on both sides to be used for archiving. The file shall also be standardised and must have a top tab for the inmate's name with a side tab for the prison service number.

## **2. Progress Files**

### ***2.(a) Purpose***

A progress file contains the observations and assessments by corrections staff on the inmates. This file is very important and provides the necessary information for the following purposes:

- (i) Classification, re-classification and transfer
- (ii) Sentence planning
- (iii) Counselling
- (iv) Temporary absence and parole considerations
- (v) Disciplinary awards and rewards

### ***2.(b) Mini Files***

A mini-progress file will be established for all new admissions. The designated primary caseworker is responsible for establishing the mini-files. Mini-files will be stored securely in the unit filing cabinet.

The purpose of the mini-file is to compile a record of the significant events and/or interactions in a case, such that a continuous, clear picture of the development and current status of the case is achieved by way of activity records and progress logs.

#### **2.(b)(i) Activity Records**

The primary caseworker shall complete an activity record at minimum once every shift cycle. Completion of activity records are not limited to the assigned caseworker, but can be completed by all other staff members having interactions with the inmate. Individual activity records are forwarded and attached to the mini-file.

All entries will be clearly dated and reflect a meaningful gist of the event and/or interaction. Comments such as "no problem", "short chat", or "C.A. received" are not adequate.

#### **2.(b)(ii) Progress Logs**

The case manager shall make a monthly summary in the form of a progress log on:

- (i) Work/education/leisure activities including personal strengths/weaknesses

- (ii) Implementation of the sentence plan
- (iii) Identify key dates/progress
- (iv) Performance on temporary absence

### **2.(c) Review**

A review of every progress file shall take place as follows:

- (i) Monthly review by case manager
- (ii) Monthly review by the officer in charge of the unit
- (iii) Regular review of sample progress files by the warden and deputy wardens

### **2.(d) Maintenance of File**

The unit in which the inmate resides shall be responsible for maintaining the progress file, even if it is loaned out, and shall ensure that the progress file is transferred when the inmate is transferred.

### **2.(e) Closing Summary Upon Discharge**

When an inmate is discharged (including warrant expiry, release on parole, terminal temporary absence, or probation) the officer in charge of the unit shall ensure that a closing summary is entered on the progress log by the inmate's case manager. The summary should include:

- (i) The discharge plan - including after-care supervision
- (ii) Response to the sentence plan
- (iii) Problems remaining unresolved
- (iv) Alternative recommendations if the inmate returns to a prison
- (v) Any additional factors which are considered important

## **3. Preparing File Entries**

In preparing narrative entries in any file, the author shall differentiate between fact and opinion in the case record.

### *Discussion:*

The contents of this file may come under scrutiny from a variety of sources. Differentiation helps to avoid opinions becoming "facts" when transferring a manual file to a new case manager. It is generally desirable to write each entry as though the individual subject would read it.

All entries, amendments and/or deletions in and/or to individual subject files or service files, whether manual or automatic, shall be dated and carry the identity of the staff member making an entry, amendment and/or deletion.

The prison service shall have policies and procedures which:

- (a) define and differentiate between types and categories of information retained on individual subject files, and
- (b) define and differentiate between groups or classes or of persons and agencies who may be granted access to the types and categories of information.

#### **4. Issue of Files**

The inmate files shall be treated as confidential.

Except in the case of emergency, the only person authorised to draw a file from the filing cabinet is the case documentation clerk.

In the case of absence of the case documentation clerk, the prison warden will assign a person to be responsible for the control of files.

The case documentation clerk is authorised to issue files to the following officers only:

(Sample List)

Warden  
Warden's Secretary  
Deputy Warden  
Deputy Warden's Secretary  
Unit Manager  
Case Management Officer, Community  
Case Management Officer, Institution  
Correctional Officers  
Chaplain  
Coordinator Correctional Operations  
Corrections Supervisor  
Psychologists  
Psychologist clerks  
Coordinator Inmate Employment  
Coordinator Case Management  
Sentence Administrator  
Chairman of Visitor Review Board  
Chief Administrative Services and Records staff  
Chief Health Care  
Nurse (Psychiatric)  
National Parole Board members  
Correctional Investigator  
Case Documentation clerks

Preventive Security Officer  
Others as authorised by the Warden or his/her Deputy

### **5. Removal of Files**

The only persons authorised for removal of files from the administration area shall be the warden, deputy warden, unit managers, coordinator of case management, correctional officers II, case documentation clerk, sentence administrator, institution preventive security officer, correctional supervisor and psychologists.

Secretaries to the warden, deputy warden and psychologists, may draw files for their supervisors.

### **6. Conditions for Removal**

Security and confidentiality of the file shall be maintained constantly. Files must be drawn on a “needed” basis in order to perform certain aspects of duty.

The file shall not be left on a desk without the responsible officer in attendance. The file shall be placed in a secure place when not being used.

No correspondence shall be removed from the file, no copies of correspondence on file shall be made, and no correspondence shall be placed on file.

### **7. Preservation of Confidential Information**

Any officers, who by the nature of their work, are exposed to confidential information, whether it concerns inmates, officers, or general administration, must preserve the confidentiality of this information. Failure to do so shall be considered a breach of service discipline.

### **8. Removal of Files from Institution**

Institutional files shall not be removed from the institution by any officer, for any reason, without the prior written consent of the prison warden.

### **9. Transfer of Files to Another Correctional Centre**

#### ***9.(a) Transfer of Files***

When an inmate is transferred to another prison, the prison warden must ensure that all files are complete, properly organised, and that the total file(s), including the transfer log, warrants, current custody report, and the transfer summary, is forwarded with the escorting officer.

Pre-trial facilities dealing mainly with awaiting trial inmates are only required to ensure that an updated custody report is placed on the file prior to transferring the inmate to another facility.

Prior to transferring an inmate from a secure prison to a lower security or non-secure facility, the officer in charge of records shall ensure that the warrant file is reviewed. If there are current outstanding charges for which the inmate is still remanded in custody, he/she will suspend the transfer and notify the classification officer.

### ***9.(b) Transportation of Files***

When an inmate is transferred to another prison, the inmate's file(s) shall be handed over to the escorting officer. Under no circumstances shall the inmate's file(s) be handed over to the inmate.

### ***9.(c) Transfer to a Prison Without Medical Facilities***

Notwithstanding the above, when an inmate is transferred to a prison where no qualified medical staff are available on either a full-time or intermittent basis, the medical file is to be retained at the nearest prison with health care facilities.

When an inmate is transferred to a prison that does not have health care facilities, the prison warden of the transferring prison shall ensure that a current medical summary has been placed in the progress file.

### ***9.(d) Forwarding of Files During Emergency Transfer***

When an emergency transfer of an inmate takes place and the file(s) is not immediately available to accompany the inmate, the records officer shall notify the receiving prison of this fact and forward the file(s) by the end of the next working day.

## **10. Storage of Inactive Files**

Discharge/closing summaries on the progress log shall be completed by the case manager or designate at the time of discharge and prior to file storage. The summary should include the reason for a security alert if applied, work/attitude/behaviour summary, and release plan.

When an inmate is discharged, either at expiration of a sentence or release on parole, the total file shall be transferred to storage (archiving within two weeks).

## **11. Retention of Material**

Archive files shall not contain material beyond seven years. The file shall be stripped of all unnecessary materials, leaving only the following on file:

- (i) All warrants except warrants of remand unless they are the sole custody documents
- (ii) Transfer log

- (iii) Personal effects records
- (iv) Classification report(s)
- (v) Discharge/closing and transfer summaries (release, transfers, and escape)
- (vi) Identification card/record sheet
- (vii) Temporary absence/parole applications, community assessments and pre-sentence reports (to be kept for at least two years)

The prison warden shall delegate the person responsible to strip the respective files before they are forwarded for archiving.

## **12. Retrieval of Inactive Files**

Where a person is re-admitted, the case file shall be searched and the records officer shall retrieve the inactive file from storage so that all relevant file material is available to prison staff.

Where the inactive file is stored in another prison, it shall be called for directly.

In most cases, inactive files will be located at the regional reception centre near the last prison in which the inmate was housed prior to discharge.

## **13. Security Classification of Files**

see IV SECURITY

## **14. File Information: Collection/Retention/Dissemination**

### ***14.(a) Obtaining Information About Offender***

When a person is sentenced, committed or transferred to a prison, the prison service shall take all reasonable steps to obtain, as soon as practicable:

- (i) Relevant information about the offence
- (ii) Relevant information about the person's personal history, including the person's social, economic, criminal and young-offender history
- (iii) Any reasons and recommendations relating to the sentencing or committal that are given or made by:
  - (a) the court that convicts, sentences or commits the person, and
  - (b) any court that hears an appeal from the conviction, sentence or committal
- (iv) Any reports relevant to the conviction, sentence or committal that are submitted to a court
- (v) Any other information relevant to administering the sentence or committal, including existing information from the victim, the victim impact statement and the transcript of any comments made by the sentencing judge regarding parole eligibility

The prison service shall take all reasonable steps to ensure that any information about an offender that it uses is as accurate, up-to-date, and complete as possible.

***14.(b) Providing Information to Parole Boards***

The service shall give, at the appropriate times, to the parole board and any body authorised by the service to supervise offenders, all information under its control that is relevant to release decision-making or to the supervision or surveillance of offenders.

***14.(c) Disclosure of Information to Victims***

At the request of the victim of an offence committed by an offender, the commissioner:

(a) shall disclose to the victim the following information about the offender:

- (i) The offender's name
- (ii) The offence of which the offender was convicted and the court that convicted the offender
- (iii) The date of commencement and length of the sentence that the offender is serving
- (iv) Eligibility dates and review dates applicable to the offender under this Act in respect of temporary absences or parole

(b) may disclose to the victim any of the following information about the offender, where in the commissioner's opinion the interest of the victim in such disclosure clearly outweighs any invasion of the offender's privacy that could result from the disclosure:

- (i) The offender's age
- (ii) The location of the prison in which the sentence is being served
- (iii) The date, if any, on which the offender is to be released on temporary absence, work release, parole or statutory release
- (iv) The date of any hearing for the purposes of a review
- (v) Any of the conditions attached to the offender's temporary absence work release, parole or statutory release
- (vi) The destination of the offender on any temporary absence, work release, parole or statutory release, and whether the offender will be in the vicinity of the victim while travelling to that destination
- (vii) Whether the offender is in custody and, if not, the reason why the offender is not in custody

**D. TRANSFERS**

## 1. Definition

Transfer means the movement of an inmate, sentenced or unsentenced, from one prison to another. Transfers are either for sentence management or administrative reasons.

## 2. Criteria for Placement and Transfer of Inmates

Where a person is, or is to be, confined in a prison, the prison service shall take all reasonable steps to ensure that the prison in which the person is confined is one that provides the least restrictive environment for that person, taking into account:

- (i) The degree and kind of custody and control necessary for:
  - (a) the safety of the public,
  - (b) the safety of that person and other persons in the prison, and
  - (c) the security of the prison.
  
- (ii) Accessibility to:
  - (a) the person's home community and family,
  - (b) a compatible cultural environment, and
  - (c) a compatible linguistic environment.
  
- (iii) The availability of appropriate programs and services and the person's willingness to participate in those programs.

The commissioner may transfer an inmate from one penitentiary to another prison, or from a prison to a correctional facility or hospital.

## 3. Sentence Management Transfers

Sentence management transfers occur for the following reasons:

- (i) Initial classification or reclassification
- (ii) Bed-load management
- (iii) Medical assessment
- (iv) Onward movement/cascading
- (v) Temporary absence approved

## 4. Administrative Transfers

Administrative transfers occur for the following reasons:

- (i) Moving unsentenced inmates because of overcrowding
- (ii) Moving unsentenced inmates for court convenience

- (iii) An emergency exists
- (iv) Escape (e.g. threat of escape, upon apprehension of escapee, where immediate transfer to higher level of security is required to prevent inmate's impending escape)
- (v) Non-physical transfer (i.e. when inmate is received by a prison other than the prison specified in the warrant)

### **5. Authority for Transfers**

The prison warden and/or the officer in charge of records has the authority to approve administrative transfers.

The prison warden and/or the classification officer has the authority to approve sentence management transfers.

### **6. Consultation**

In order to ensure effective placements and efficient bed-load management, sending and receiving prisons shall consult with each other on administrative transfers.

### **7. Emergency Transfer**

see IV SECURITY

### **8. Transfer via Sheriffs Direct from Court**

When an inmate is released to sheriff's custody and is subsequently admitted to another prison, the officer in charge of records of that centre will notify the officer in charge of records of the centre from which the inmate was released. The latter officer in charge of records will complete the transfer log and forward the inmate file to the appropriate prison.

### **9. Transfer to Another Prison**

Inmate files and documentation shall accompany the inmate on transfer. Whenever possible, this will also apply to emergency transfers. If files cannot be moved with the inmate in an emergency transfer, the prison warden will ensure that the receiving prison receives a photocopy of the committal documents plus any other pertinent information.

### **10. Suicidal/Violent Inmates**

An inmate who is assessed as suicidal or violent, and whose file is identified accordingly, will not be transferred away from secure custody. An inmate who requires protective custody, and whose file is identified accordingly, may be transferred to lesser security but arrangements shall be made by the classification officer to have the label removed at destination.

### **11. Transfer Logs**

A transfer log is a form which is prepared on an inmate at the time of his/her first transfer and attached to the cover of the warrant file. All subsequent transfers will be recorded on this log as they occur.

The authority approving the move will enter the necessary information- date, location, and reason for move. He/she will print his/her name, as well as sign it. Wherever possible, the entries will be typed. If this is not possible, entries will be printed clearly.

### **12. Transfer of Files**

see section C 8 above

### **13. Transfer of Juveniles**

In any instance of a youth being transferred between different correctional centre, written notice to the parent(s) and/or guardian(s) and field probation officer concerned with the case shall be forwarded within twenty-four hours of the transfer taking place.

#### *Discussion:*

Whenever possible, the youth in question should be involved in making transfer decisions, where the transfer is within the same level of custody, e.g. from one open custody to another. In every instance, written notice of the transfer and the reasons for the transfer should be provided to the youth's parent(s) and/or guardian(s) and to the officer.

Where a youth is sentenced to containment and the initiation of an early release is being considered, preparation for that release shall involve at least one trial visit to the intended residence upon release.

## **E. INMATE DEATHS**

see also III INMATE RIGHTS AND TREATMENT OF PRISONERS

### **1. Presumption of Death**

Death, except in the most obvious of situations (decapitation, decomposition, etc.), should not be presumed. Lifesaving and resuscitation should be employed immediately and continued until directed, by medical personnel, to cease.

### **2. Protection of Scene**

Action must be taken to protect the scene and preserve evidence.

If death is pronounced (or certified) at the scene, the body shall not be removed until identified by the coroner. The areas should be sealed off, photographs taken and security of evidence ensured. No one is to have access to the area without the consent of the coroner.

If death is pronounced at a hospital, ensure the body remains there until the coroner directs removal.

### **3. Coroner's Inquest**

#### ***3.(a) Purpose***

The purpose of a coroner's inquest is to determine the cause of death and to establish a finding of fact; it is not intended to find fault.

#### ***3.(b) Requirement to Report to Coroner***

A person shall immediately notify a coroner or a peace officer of the facts and circumstances relating to a death where he/she has reason to believe that a person has died:

- (a) as a result of violence, misadventure, negligence, misconduct, malpractice or suicide,
- (b) by unfair means,
- (c) during pregnancy or following pregnancy in circumstances that might reasonably be attributable to pregnancy,
- (d) suddenly and unexpectedly,
- (e) from disease, sickness or unknown cause, for which he/she was not treated by a medical practitioner,
- (f) from any cause other than disease under circumstances that may require investigation, or
- (g) in a correctional institution, lockup or prison.

### **4. Board of Inquiry**

There shall be a board of inquiry held with respect to all inmate deaths.

### **5. Reports**

All reports submitted with respect to the death of an inmate shall be detailed and accurate. Particular attention should be paid to times and dates, names of witnesses, actions taken, and the identity of the person who last saw the deceased alive and under what circumstances.

### **6. Photographs**

Any photographs taken should contain specific details including location, time, subject matter, and photographer.

## **7. Suicides**

Where an inmate dies as a result of a suicide attempt in a prison and has been properly pronounced dead by a medical doctor, the prison warden or officer in charge shall:

1. Inform police authorities for the required investigation
2. Inform the coroner's office
3. Inform the commissioner, the director of inspection and standards, or equivalent
4. Advise the chaplain who will attempt to contact next of kin

## **8. Burials**

Where an inmate dies in a prison and no relative or executor claims the body for burial, arrangements and costs for the interment of the body in a local cemetery will be provided.

The chaplain will liaise with the local cemetery and advise when the body is released by the coroner and ready for interment.

Where it is necessary for the prison warden to take appropriate steps to have the body interred in a local cemetery, he/she shall be guided by:

- (a) a sensitivity for the respect and dignity of the deceased, and
- (b) the level of service provided by local municipalities under similar circumstances.

## **9. Personal Effects**

Where an inmate dies in a prison, his/her personal effects shall be held in storage at the prison until claimed by the executor or the inmate's will. The prison is responsible for sending the effects to the location specified by the executor.

## **F. RELEASE OF INMATES**

### **1. Release of Inmates from Prison Custody**

An inmate shall only be released from the custody of a prison by:

- (a) an order of a court of competent jurisdiction, or
- (b) by due process of law.

## **2. Authority for Release**

The authority for releasing an inmate from custody are:

1. Expiration of sentence, taking into consideration possible earned remission
2. Payment of fine
3. A court order releasing an inmate from the custody of the prison in the following circumstances:
  - (i) Bail
  - (ii) Release on recognizance
  - (iii) Acquittal
  - (iv) Undertaking to appear
  - (v) Appeal bail
  - (vi) Board of parole
  - (vii) Temporary absence
  - (viii) Executive clemency
  - (ix) Habeas corpus

## **3. Releasing Time**

For the purposes of release, the day of release shall be from 0001 to 2359 hours.

All inmate releases due to expiration of sentence shall occur on the actual date of sentence expiration as indicated on the warrant and determined by sentence calculation.

## **4. Releases on a Sunday or Statutory Holiday**

When an inmate's projected day of release falls on a Sunday or statutory holiday, he/she may be released under the authority of a temporary absence on a day immediately preceding the Sunday and/or statutory holiday.

## **5. Travel Warrants**

Upon discharge of an inmate from custody, the prison warden shall provide the inmate with a travel warrant to:

- (a) the place where the inmate was convicted, or
- (b) another place requested by the inmate, where the prison warden considers it reasonable or necessary for the inmate to go within that province/region.

## **6. Illness at the Time of Discharge**

Where, in the opinion of the medical officer, an inmate is suffering from an acute illness on the day his/her sentence expires, the prison warden shall permit the inmate to remain at the prison

until the medical officer considers the inmate medically fit, or alternate arrangements for the care of the inmate have been made.

Where an inmate is capable of making a written request to remain at the prison, the prison warden shall not permit the inmate to remain unless a written request is submitted.

### **7. Return of Clothing and Bedding on Release**

Inmates being released shall be required to return to prison services all items listed except for underwear, socks, t-shirts, shoes and/or sneakers which they may retain if they so desire.

The inmate being discharged shall pay for damage or losses to any part of the bedding pack.

### **8. Return of Personal Effects**

All property belonging to an inmate during the period of his/her incarceration shall be returned to and signed for by the inmate upon discharge.

### **9. Probation Order**

Where an inmate has an outstanding probation order on the expiration of his/her sentence, the records officer shall direct the inmate to the probation office.

### **10. Notification to Police**

When an inmate who is nearing discharge is believed by the institution to be mentally disturbed, has attempted suicide during incarceration, is believed to have suicidal intentions, or has made threats of violence toward police officers or any other person, such information shall be communicated in writing to the police.

An inmate who has been contemplating suicide should be referred upon discharge to a family physician, mental health clinic, forensic psychiatric unit or other appropriate resource. The inmate should also be advised that the telephone number of the nearest crisis centre may be found on the inside front cover of the telephone directory.



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## II CASE MANAGEMENT

### PART ONE: UN GUIDELINES

#### A. GUIDING PRINCIPLES FOR THE MANAGEMENT OF PRISONERS

##### 1. Protection of Society, Rehabilitation and Reintegration of Offenders

###### *Basic Principles for the Treatment of Prisoners*<sup>1</sup>

###### *Article 4*

The responsibility of prisons for the custody of prisoners and for the protection of society against crime shall be discharged in keeping with a state's other social objectives and its fundamental responsibilities for promoting the well-being and development of all members of society.

###### *International Covenant on Civil and Political Rights*<sup>2</sup>

###### *Article 10*

3. The penitentiary system shall comprise treatment of prisoners with the essential aim being reformation and social rehabilitation. Juvenile offenders shall be separated from adults and be accorded treatment appropriate to their age and legal status.

###### *Standard Minimum Rules for the Treatment of Prisoners*<sup>3</sup>

###### *Article 58*

The purpose and justification of a sentence of imprisonment or a similar deprivation of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon the offender's return to society, he/she is not only willing but able to lead a law-abiding and self-supporting life.

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<sup>1</sup> General Assembly Resolution 45/111 of 14 December 1990.

<sup>2</sup> General Assembly Resolution 2200 A (XXI) of 16 December 1966.

<sup>3</sup> First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva 1955.

## 2. Replication of Community Settings

*Standard Minimum Rules for the Treatment of Prisoners*<sup>4</sup>

### *Article 60*

1. The regime of the institution should seek to minimise any difference between prison life and life at liberty which tends to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.

## B. CLASSIFICATION OF INMATES

### 1. Classification and Individualisation of Treatment

#### *1.(a) General*

*Standard Minimum Rules for the Treatment of Prisoners*<sup>5</sup>

### *Article 63*

1. The fulfillment of these principles requires individualisation of treatment and a flexible system of classifying prisoners in groups. It is therefore desirable for such groups to be distributed in separate institutions suitable for the treatment of each group.

3. It is desirable for the number of prisoners in closed institutions to not be so large that the individualisation of treatment is hindered. In some countries it is considered that the population of such institutions should not exceed five hundred. In open institutions the populations should be as small as possible.

4. On the other hand, it is undesirable to maintain prisons which are so small that proper facilities cannot be provided.

### *Article 66*

2. As soon after inmate admissions as possible, full reports on those serving suitable length sentences shall be received by the director. Such reports shall always include a report by a medical officer, wherever possible qualified in psychiatry, on the physical and mental condition of the prisoner.

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<sup>4</sup> *Supra*, note

<sup>5</sup> *Supra*, note

3. The reports and other relevant documents shall be placed in an individual file. This file shall be kept up-to-date and classified in such a way that the responsible personnel can consult it whenever the need arises.

*Article 67*

The purpose of classification shall be:

- (a) to separate from others those prisoners who, by reason of their criminal records or bad characters, are likely to exercise a bad influence; and
- (b) to divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.

***1.(b) Separation of Categories***

*Standard Minimum Rules for the Treatment of Prisoners*<sup>6</sup>

*Article 68*

So far as possible, separate institutions or separate sections of an institution shall be used for the treatment of the different classes of prisoners.

**1.(b)(i) Convicted and Unconvicted Persons**

*International Covenant on Civil and Political Rights*<sup>7</sup>

*Article 10*

2.(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment subject to their status as unconvicted persons.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>8</sup>

*Article 8*

The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,

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<sup>6</sup> *Supra*, note

<sup>7</sup> *Supra*, note

<sup>8</sup> First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva 1955.

(b) untried prisoners shall be kept separate from convicted prisoners.

1.(b)(ii) Women and Men

*Standard Minimum Rules for the Treatment of Prisoners*<sup>9</sup>

*Article 8*

The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,

(a) men and women shall so far as possible be detained in separate institutions. In an institution which receives both men and women, the premises allocated to women shall be entirely separate.

1.(b)(iii) Civil and Criminal Offenders

*Standard Minimum Rules for the Treatment of Prisoners*<sup>10</sup>

*Article 8*

The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,

(c) persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence.

1.(b)(iv) Young Prisoners and Adults

*Standard Minimum Rules for the Treatment of Prisoners*<sup>11</sup>

*Article 8*

The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,

(d) young prisoners shall be kept separate from adults.

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<sup>9</sup> *Supra*, note

<sup>10</sup> *Ibid*

<sup>11</sup> *Ibid*

### ***1.(c) Placement or Classification in Least Restrictive Environment***

*Standard Minimum Rules for the Treatment of Prisoners*<sup>12</sup>

#### *Rule 63*

2. These institutions need not provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different groups. Open institutions, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to rehabilitation for carefully selected prisoners.

## **C. SENTENCE PLANNING**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>13</sup>

#### *Rule 69*

As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a program of treatment shall be prepared for him/her in light of the knowledge obtained about his/her individual needs, capacities and dispositions.

## **D. CORRECTIONAL PROGRAMS AND TREATMENT OF OFFENDERS**

### **1. Goals of Treatment**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>14</sup>

#### *Rule 65*

The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility.

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<sup>12</sup> Ibid

<sup>13</sup> *Supra*, note

<sup>14</sup> Ibid

## **2. Kinds of Assistance**

### **2.(a) General**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>15</sup>

#### *Rule 59*

To this end, the institution should utilise all the remedial, educational, moral, spiritual and other forces and forms of assistance which are appropriate and available, and should seek to apply them according to the individual treatment needs of the prisoner.

#### *Rule 66*

1. To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his/her temperament, the length of sentence and prospects after release.

### **2.(b) Provision of Correctional Personnel/Specialists**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>16</sup>

#### *Rule 49*

1. So far as possible, the personnel shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers and trade instructors.

## **3. Education**

### **3.(a) Educational Programs**

*Universal Declaration of Human Rights*<sup>17</sup>

#### *Article 26*

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory.

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<sup>15</sup> Ibid

<sup>16</sup> Ibid

<sup>17</sup> General Assembly Resolution 217 A (III) of 10 December 1948.

Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

*Basic Principles for the Treatment of Prisoners*<sup>18</sup>

*Principle 6*

All prisoners have the right to take part in cultural activities and education aimed at the full development of the human personality.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>19</sup>

*Rule 77*

1. Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.

2. So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

**3.(b) Educational Materials**

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>20</sup>

*Principle 28*

A detained or imprisoned person shall have the right to obtain within the limits of available resources, if from private sources, reasonable quantities of educational, cultural and informational material, subject to reasonable conditions to ensure security and good order in the place of detention or imprisonment.

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<sup>18</sup> *Supra* note

<sup>19</sup> *Supra*, note

<sup>20</sup> General Assembly Resolution 43/173 of 9 December 1988.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>21</sup>*Rule 40*

Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books. Prisoners shall be encouraged to make full use of it.

**4. Recreation**

see V HEALTH

**5. Work Programs****5.(a) Provision of Work Programs***Standard Minimum Rules for the Treatment of Prisoners*<sup>22</sup>*Rule 71*

2. All prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer.

5. Vocational training in useful trades shall be provided especially for young prisoners and for prisoners able to profit thereby.

**5.(b) Objectives of Work Programs***Basic Principles for the Treatment of Prisoners*<sup>23</sup>*Principle 8*

Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labour market and permit them to contribute to their own financial support and to that of their families.

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<sup>21</sup> *Supra*, note

<sup>22</sup> *Supra*, note

<sup>23</sup> *Supra*, note

*Standard Minimum Rules for the Treatment of Prisoners*<sup>24</sup>*Rule 71*

4. So far as possible, the work provided shall be such as will maintain or increase the prisoners' ability to earn an honest living after release.

*Rule 72*

1. The organisation and methods of work in the institutions shall resemble as closely as possible those of similar work outside institutions, so as to prepare prisoners for the conditions of normal occupational life.

2. The interests of the prisoners and of their vocational training, however, must not be subordinated to the purpose of making a financial profit from an industry in the institution.

**5.(c) Work Conditions****5.(c)(i) General***Standard Minimum Rules for the Treatment of Prisoners*<sup>25</sup>*Rule 71*

1. Prison labour must not be of an afflictive nature.

3. Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.

6. Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, the prisoners shall be able to choose the type of work they wish to perform.

*Rule 75*

1. The maximum daily and weekly working hours of the prisoners shall be fixed by law or by administrative regulation, taking into account local rules or customs in regard to the employment of free workmen.

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<sup>24</sup> *Supra*, note

<sup>25</sup> *Supra*, note

2. The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of the prisoners.

#### 5.(c)(ii) Remuneration

*Standard Minimum Rules for the Treatment of Prisoners*<sup>26</sup>

##### *Rule 76*

1. There shall be a system of equitable remuneration of the work of prisoners.
2. Under the system, prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their families.
3. The system should also provide a part of the earnings to be set aside by the administration so as to constitute a savings fund to be handed over to the prisoner upon release.

#### 5.(c)(iii) Prison Administration and Work Release

*Standard Minimum Rules for the Treatment of Prisoners*<sup>27</sup>

##### *Rule 73*

1. Institutional industries and farms should preferably be operated directly by the administration and not by private contractors.
2. Where prisoners are employed in work not controlled by the administration, they shall always be under the supervision of the institution's personnel. Unless the work is for other departments of the government, the persons to whom the labour is supplied shall pay the full normal wages for such work to the administration. The output of the prisoners shall be taken into account.

#### 5.(c)(iv) Health and Safety

##### *Article 74*

1. The precautions laid down to protect the safety and health of free workmen shall be equally observed in institutions.

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<sup>26</sup> Ibid

<sup>27</sup> *Supra*, note

2. Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workmen.

## **6. Provision of Religious Programs**

see also III INMATE RIGHTS AND TREATMENT OF PRISONERS

*Standard Minimum Rules for the Treatment of Prisoners*<sup>28</sup>

### *Rule 41*

1. If the institution contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.

2. A qualified representative appointed or approved under Paragraph 1 shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his/her religion at proper times.

3. Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his/her attitude shall be fully respected.

### *Rule 42*

So far as practicable, every prisoner shall be allowed to satisfy the needs of his/her religious life by attending the services provided in the institution and having in his/her possession the books of religious observance and instruction of his/her denomination.

## **7. Social Relations**

### **7.(a) Creating Favourable Conditions for Reintegration**

*Basic Principles for the Treatment of Prisoners*<sup>29</sup>

#### *Principle 10*

With the participation and help of the community and social institutions and with due regard to the interests of victims, favourable conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions.

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<sup>28</sup> Ibid

<sup>29</sup> *Supra*, note

### ***7.(b) Maintaining/Establishing Social Relations***

#### **7.(b)(i) General**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>30</sup>

##### *Rule 61*

The treatment of prisoners should emphasise not their exclusion from the community, but their continuing part in it. Community agencies should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners. There should be in connection with every institution, social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his/her family and with valuable social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.

##### *Rule 79*

Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his/her family as are desirable in the best interests of both.

##### *Rule 80*

From the beginning of a prisoner's sentence, consideration shall be given to his/her future after release. He/she shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interests of his/her social rehabilitation and family.

#### **7.(b)(ii) Visits/Correspondence**

see III INMATE RIGHTS AND TREATMENT OF OFFENDERS

### **8. Privileges**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>31</sup>

##### *Rule 70*

Systems of privileges appropriate for the different classes of prisoners and the different methods of treatment shall be established at every institution, in order to encourage

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<sup>30</sup> *Supra*, note

<sup>31</sup> *Supra*, note 55

good conduct, develop a sense of responsibility and secure the interest and cooperation of the prisoners in their treatment.

## **9. Release and After-Care**

### ***9.(a) Conditional Release***

*Standard Minimum Rules for the Treatment of Prisoners*<sup>32</sup>

#### *Rule 60*

2. Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure the prisoner's gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organised in the same institution or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.

### ***9.(b) General Release***

*Declaration on the Protection of All Persons from Enforced Disappearance*<sup>33</sup>

#### *Article 11*

All persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and further, have been released in conditions in which their physical integrity and ability to fully exercise their rights are assured.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>34</sup>

#### *Rule 64*

The duty of society does not end with a prisoner's release. There should, therefore, be governmental or private agencies capable of lending the released prisoner efficient aftercare directed towards the lessening of prejudice against him/her and towards his/her social rehabilitation.

#### *Rule 80*

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<sup>32</sup> *Supra*, note

<sup>33</sup> Adopted by General Assembly Resolution 471133 of 18 December 1992.

<sup>34</sup> *Supra*, note

From the beginning of a prisoner's sentence, consideration shall be given to his/her future after release. He/she shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interests of his/her social rehabilitation and family.

*Rule 81*

1. Services and agencies, governmental or otherwise, which assist released prisoners to re-establish themselves in society shall ensure, so far as is possible and necessary, that released prisoners be provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.
2. The approved representatives of such agencies shall have all necessary access to the institution and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his/her sentence.
3. It is desirable that the activities of such agencies shall be centralised or coordinated as far as possible in order to secure the best use of their efforts.

## **E. YOUTH PROGRAMS**

### **1. Fundamental Perspectives**

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>35</sup>

*Rule 1*

The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be used as a last resort.

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")*

*Rule 1*

1. Member states shall seek, in conformity with their respective general interests, to further the well-being of the juvenile and her or his family.

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<sup>35</sup> *General Assembly Resolution 451113 of 14 December 1990.*

2. Member states shall endeavour to develop conditions that will a meaningful life for the juvenile in the community, and which, during that period in life when she or he is most susceptible to deviant behaviour, will foster a process of personal development and education that is as free from crime and delinquency as possible.
3. Sufficient attention shall be given to positive measures which involve the full mobilisation of all possible resources. This shall include the family, volunteers and other community groups, as well as schools and other community institutions, for the purpose of promoting the well-being of the juvenile, with a view to reducing the need for intervention under the law, and of effectively, fairly and humanely dealing with the juvenile in conflict with the law.
4. Juvenile justice shall be conceived as an integral part of the national development process of each country, within a comprehensive framework of social justice for all juveniles, yet, at the same time, contributing to the protection of the young and the maintenance of a peaceful order in society.
5. These Rules shall be implemented in the context of economic, social and cultural conditions prevailing in each member state.
6. Juvenile justice services shall be systematically developed and coordinated with a view to improving and sustaining the competence of personnel involved in the services, including their methods, approaches and attitudes.

#### *Commentary*

These broad fundamental perspectives refer to comprehensive social policy in general and aim at promoting juvenile welfare to the greatest possible extent, which will minimise the necessity of intervention by the juvenile justice system, and in turn, will reduce the harm that may be caused by any intervention. Such care measures for the young, before the consent of delinquency, are basic policy requisites designed to obviate the need for the application of the Rules.

Rules 1.1 to 1.3 point to the important role that a constructive social policy for juveniles will play, *inter alia*, in the prevention of juvenile crime and delinquency. Rule 1.4 defines juvenile justice as an integral part of social justice for juveniles. Rule 1.6 refers to the necessity of constantly improving juvenile justice, without falling behind the development of progressive social policy for juveniles in general and bearing in mind the need for consistent improvement of staff services.

Rule 1.5 seeks to take account of existing conditions in member states which would cause the manner of implementation of particular rules necessarily to be different from the manner adopted in other states.

*Rule 2*

3. Efforts shall be made to establish, in each national jurisdiction, a set of laws, rules and provisions specifically applicable to juvenile offenders as well as institutions and bodies entrusted with the functions of the juvenile justice administration. They shall be designed:

- (a) to meet the varying needs of juvenile offenders, while protecting their basic rights,
- (b) to meet the needs of society, and
- (c) to implement the following rules thoroughly and fairly.

*Commentary*

Rule 2.3 is addressed to the necessity of specific national legislation for the optimal implementation of these Standard Minimum Rules, both legally and practically.

*Rule 5*

1. The juvenile justice system shall emphasise the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances to both the offenders and the offence.

*Commentary*

Rule 5.1 refers to two of the most important objectives of juvenile justice. The first objective is the promotion of the juvenile's well-being. This is the main focus of those legal systems in which juvenile offenders are dealt with by family courts or administrative authorities. The well-being of the juvenile should also be emphasised in legal systems that follow the criminal court model, thus contributing to the avoidance of merely punitive sanctions.

**2. Adjudication and Disposition****2.(a) General**

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")*<sup>36</sup>

*Rule 17*

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<sup>36</sup> *Supra*, note

1. The disposition of the competent authority shall be guided by the following principles:
  - (i) The reaction taken shall always be in proportion not only to the circumstances and the gravity of the offence but also to the circumstances and the needs of the juvenile and to the needs of the society
  - (ii) Restrictions on the personal liberty of the juvenile shall be imposed only after careful consideration and shall be limited to the possible minimum
  - (iii) Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response
  - (iv) The well-being of the juvenile shall be the guiding factor in the consideration of her or his case
2. Capital punishment shall not be imposed for any crime committed by juveniles.
3. Juveniles shall not be subjected to corporal punishment.
4. The competent authority shall have the power to discontinue the proceedings at any time.

#### *Commentary*

The main difficulty in formulating guidelines for the adjudication of young persons stems from the fact that there are unresolved conflicts of a philosophical nature, such as the following:

- (i) Rehabilitation versus just desert
- (ii) Assistance versus repression and punishment
- (iii) Reaction according to the singular merits of an individual case versus reaction according to the protection of society in general
- (iv) General deterrence versus individual incapacitation

The conflict between these approaches is more pronounced in juvenile cases than in adult cases. With the variety of causes and reactions characterising juvenile cases, these alternatives become intricately interwoven.

It is not the function of the Standard Minimum Rules for the Administration of Juvenile Justice to prescribe which approach is to be followed but rather to identify one that is most closely in consonance with internationally accepted principles. Therefore the essential elements as laid down in Rule

17.1, in particular in Subparagraphs (i) and (iii), are mainly to be understood as practical guidelines that should ensure a common starting point. If heeded by the concerned authorities, they could contribute considerably to ensuring that the fundamental rights of juvenile offenders are protected, especially the fundamental rights of personal development and education.

Rule 17.1(ii) implies that strictly punitive approaches are not appropriate. Whereas in adult cases, and possibly also in cases of severe offences by juveniles, just desert and retributive sanctions might be considered to have some merit, in juvenile cases such considerations should always be outweighed by the interest of safeguarding the well-being and the future of the young person.

In line with Resolution 8 of the Sixth United Nations Congress, Rule 17.1(ii) encourages the use of alternatives to institutionalisation to the maximum extent possible, bearing in mind the need to respond to the specific requirements of the young. Thus, full use should be made of the range of existing alternative sanctions and new alternative sanctions should be developed, bearing public safety in mind. Probation should be granted to the Standard Minimum Rules for the administration of juvenile justice to the greatest possible extent via suspended sentences, conditional sentences, board orders and other dispositions.

Rule 17.1(iii) corresponds to one of the guiding principles in Resolution 4 of the Sixth Congress which aims at avoiding incarceration in the case of juveniles unless there is no other appropriate response that will protect the public safety.

The provision prohibiting capital punishment in Rule 17.2 is in accordance with Article 6, Paragraph 5, of the International Covenant on Civil and Political Rights.

The provision against corporal punishment is in line with Article 7 of the International Covenant on Civil and Political Rights and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the draft convention on the rights of the child.

The power to discontinue the proceedings at any time (Rule 17.4) is a characteristic inherent in the handling of juvenile offenders as opposed to adults. At any time, circumstances may become known to the competent authority which would make a complete cessation of the intervention appear to be the best disposition of the case.

*2.(b) Avoidance of Unnecessary Delay*

*International Covenant on Civil and Political Rights*<sup>37</sup>

*Article 10*

2.(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)*<sup>38</sup>

*Rule 20*

1. From the outset, each case shall be handled expeditiously, without any unnecessary delay.

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<sup>37</sup> General Assembly Resolution 2200 A (XXI) 16 December 1996.

<sup>38</sup> *Supra*, note

### 3. Objectives of Institutional Treatment

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)*<sup>39</sup>

#### *Rule 26*

1. The objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society.

2. Juveniles in institutions shall receive care, protection and all necessary assistance—social, educational, vocational, psychological, medical and physical, they may require because of their age, sex, and personality and in the interest of their wholesome development.

#### *Commentary*

The objectives of institutional treatment as stipulated in Rules 26.1 and 26.2 would be acceptable to any system and culture. However, they have not yet been attained everywhere, and much more has to be done in this respect.

Medical and psychological assistance, in particular, are extremely important for institutionalised drug addicts, and violent and mentally ill young persons.

### 4. Replication of Community Settings

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>40</sup>

#### *Rule 87*

All personnel should seek to minimise any differences between life inside and outside the detention facility which tend to lessen due respect for the dignity of juveniles as human beings.

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<sup>39</sup> *Supra*, note

<sup>40</sup> *Supra*, note

## 5. Separation and Individualisation of Treatment

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)* <sup>41</sup>

### *Rule 13*

4. Juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.

### *Commentary*

Rule 13.4 does not prevent states from taking other measures against the negative influences of adult offenders which are at least as effective as the measures mentioned in the rule.

### *Rule 26*

3. Juveniles in institutions shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution which also holds adults.

### *Commentary*

The avoidance of negative influences through adult offences and the safeguarding of the well-being of juveniles in an institutional setting, as stipulated in Rule 26.3, are in line with one of the basic guiding principles of the Rules, as set out by the Sixth Congress in its Resolution 4. The Rule does not prevent states from taking other measures against the negative influences of adult offenders, which are at least as effective as the measures mentioned in the rule. (See also Rule 13.4)

4. Young female offenders placed in an institution deserve special attention for their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be ensured.

### *Commentary*

Rule 26.4 addresses the fact that female offenders normally receive less attention than their male counterparts as pointed out by the Sixth Congress. In particular, Resolution 9 of the Sixth Congress calls for the fair treatment of female offenders at every stage of criminal justice processes and for

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<sup>41</sup> *Supra*, note

special attention to their particular problems and needs while in custody. Moreover, this Rule should also be considered in light of the Caracas Declaration of the Sixth Congress, which *inter alia*, calls for equal treatment in criminal justice administration, and against the background of the Declaration on the Elimination of Discrimination Against Women and the Convention on the Elimination of All Forms of Discrimination Against Women.

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* <sup>42</sup>

*Rule 29*

In all detention facilities, juveniles should be separated from adults unless they are members of the same family. Under controlled conditions, juveniles may be brought together with carefully selected adults as part of a special program that has been shown to be beneficial for the juveniles concerned.

## **6. Classification and Placement**

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* <sup>43</sup>

*Rule 27*

As soon as possible after the moment of admission, each juvenile should be interviewed, and a psychological and social report identifying any factors relevant to the specific type and level of care and program required by the juvenile should be prepared. This report, together with the report prepared by a medical officer who has examined the juvenile upon admission, should be forwarded to the director for purposes of determining the most appropriate placement for the juvenile within the facility and the specific type and level of care and program required to be pursued. When special rehabilitative treatment is required, and the length of stay in the facility permits, trained personnel of the facility should prepare a written, individual treatment plan specifying treatment objectives and time frames and the means, stages and delays with which the objectives should be approached.

*Rule 28*

The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations. The principal

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<sup>42</sup> *Supra*, note

<sup>43</sup> General Assembly Resolution 451113 of 14 December 1990.

criterion for the separation of different categories of juveniles deprived of their liberty should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.

*Rule 30*

Open detention facilities for juveniles should be established. Open detention facilities are those with minimal or no security measures. The population in such detention facilities should be as small as possible. The number of juveniles detained in closed facilities should be small enough to enable individualised treatment. Detention facilities for juveniles should be decentralised and of such size as to facilitate access and contact between the juveniles and their families. Small-scale detention facilities should be established and integrated into the social, economic and cultural environment of the community.

## **7. Provision of Programs**

### **7.(a) General**

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* <sup>44</sup>

*Rule 12*

The deprivation of liberty should be effected in conditions and circumstances, which ensure respect for the human rights of juveniles. Juveniles detained in facilities should be guaranteed the benefit of meaningful activities and programs which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society.

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)* <sup>45</sup>

*Rule 26*

6. Inter-ministerial and inter-departmental cooperation shall be fostered for the purpose of providing adequate academic or, as appropriate, vocational training to institutionalised juveniles, with a view to ensuring that they do not leave the institution at an educational disadvantage.

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<sup>44</sup> *Supra*, note

<sup>45</sup> *Supra*, note

### ***7.(b) Detention Pending Trial***

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)*<sup>46</sup>

#### *Rule 13*

5. While in custody, juveniles shall receive care, protection and all necessary individual assistance- social, educational, vocational, psychological, medical and physical, that they may require in view of their age, sex and personality.

#### *Commentary*

Different forms of assistance that may become necessary have been enumerated to draw attention to the broad range of particular needs of young detainees to be addressed (for example females or males, drug addicts, alcoholics, mentally ill juveniles, young persons suffering from trauma, such as of arrest, etc.)

### ***7.(c) Assistance During Term of Sentence***

#### **7.(c)(i) General**

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>47</sup>

#### *Rule 81*

Personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists. These and other specialist staff should normally be employed on a permanent basis. This guideline should not preclude part-time or volunteer workers when the level of support and training they can provide is appropriate and beneficial. Detention facilities should make use of all remedial, educational, moral, spiritual, and other resources and forms of assistance that are appropriate and available in the community, according to the individual problems of detained juveniles.

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<sup>46</sup> *Supra*, note

<sup>47</sup> *Supra*, note

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)* <sup>48</sup>

*Rule 26*

2. Juveniles in institutions shall receive care, protection and all necessary assistance—social, educational, vocational, psychological, medical and physical, that they may require because of their age, sex, and personality and in the interest of their wholesome development.

7.(c)(ii) Education

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* <sup>49</sup>

*Rule 38*

Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programs integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty. Special attention should be given by the administration of the detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education.

*Rule 39*

Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programs.

*Rule 40*

Diplomas or educational certificates awarded to juveniles while in detention should not indicate in any way that the juveniles have been institutionalised.

*Rule 41*

Every detention facility should provide access to a library that is adequately stocked with both instructional and recreational books and periodicals suitable for the juveniles.

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<sup>48</sup> *Supra*, note

<sup>49</sup> *Supra*, note

Juveniles should be enabled and encouraged to make full use of the library.

7.(c)(iii) Work

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>50</sup>

*Rule 42*

Every juvenile should have the right to receive vocational training in occupations likely to prepare him or her for future employment.

*Rule 43*

With due regard to proper vocational selection and to the requirements of institutional administration, juveniles should be able to choose the type of work they wish to perform.

*Rule 44*

All protective national and international standards applicable to child labour and young workers should apply to juveniles deprived of their liberty.

*Rule 45*

Wherever possible, juveniles should be provided with the opportunity to perform remunerated labour, if possible within the local community, as a complement to the vocational training provided in order to enhance the possibility of finding suitable employment when they return to their communities. The type of work should be such as to provide appropriate training that will be of benefit to the juveniles following release. The organisation and methods of work offered in detention facilities should resemble as closely as possible those of similar work in the community so as to prepare juveniles for the conditions of normal occupational life.

*Rule 46*

Every juvenile who performs work should have the right to equitable remuneration. The interests of the juvenile and of his/her vocational training should not be subordinated to the purpose of making a profit for the detention facility or a third party. Part of the earning of a juvenile should normally be set aside to constitute a savings fund to be handed over to the juvenile on release. The juvenile should have the right to use the remainder of those earnings to purchase articles for his or her own use or to indemnify

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<sup>50</sup> *Supra*, note

the victim injured by his or her offence or to send it to his or her family or other persons outside the detention facilities.

#### 7.(c)(iv) Recreation

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>51</sup>

##### *Rule 47*

Every juvenile should have the right to a suitable amount of time for daily free exercise in the open air whenever weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installations and equipment should be provided for these activities. Every juvenile should have additional time for daily leisure activities, part of which should be devoted, if the juvenile so wishes, to arts and crafts skill development. The detention facility should ensure that each juvenile is physically able to participate in the available program of physical education. Remedial physical education and therapy should be offered, under medical supervision, to juveniles needing it.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>52</sup>

##### *Rule 2*

Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end, installations and equipment should be provided.

#### 7.(c)(v) Religion

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>53</sup>

##### *Rule 48*

Every juvenile should be allowed to satisfy the needs of his or her religious and spiritual life, in particular by attending the services or meetings provided in the detention facility or by conducting his or her own services and having possession of the necessary books or items of religious observance and instruction of his or her denomination. If a detention facility contains a sufficient number of juveniles of a given religion, one or more qualified representatives of that religion should be appointed or approved and allowed to hold regular services and to pay pastoral visits in private to juveniles at their request.

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<sup>51</sup> *Supra*, note

<sup>52</sup> *Supra*, note

<sup>53</sup> *Supra*, note

Every juvenile should have the right to receive visits from a qualified representative of any religion of his or her choice, as well as the right not to participate in religious services and to freely decline religious education, counselling or indoctrination.

7.(c)(vi) Medical Care

see also V HEALTH

*Rule 49*

Every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmologic and mental health care, as well as pharmaceutical products and special diets as medically indicated. All such medical care should, where possible, be provided to detained juveniles through the appropriate health facilities and services of the community in which the detention facility is located, in order to prevent stigmatisation of the juvenile and promote self-respect and integration into the community.

*Rule 51*

The medical services provided to juveniles should seek to detect and treat any physical or mental illness, substance abuse or other condition that may hinder the integration of the juvenile into society. Every detention facility for juveniles should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of residents and staff trained in preventive health care and the handling of medical emergencies. Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties, should be examined promptly by a medical officer.

*Rule 52*

Any medical officer who has reason to believe that the physical or mental health of a juvenile has been or will be injuriously affected by continued detention, a hunger strike or any condition of detention, should report this fact immediately to the director of the detention facility in question and to the independent authority responsible for safeguarding the well-being of the juvenile.

*Rule 53*

A juvenile who is suffering from mental illness should be treated in a specialised institution under independent medical management. Steps should be taken, by arrangement with appropriate agencies, to ensure any necessary continuation of mental health care after release.

*Rule 54*

Juvenile health facilities should adopt specialised drug abuse prevention and rehabilitation programs administered by qualified personnel. The programs should be adapted to the age, sex and other requirements of the juveniles concerned, and detoxification facilities and services staffed by trained personnel should be available to drug or alcohol dependent juveniles.

**8. Contacts with the Wider Community**

see III INMATE RIGHTS AND TREATMENT OF PRISONERS

**9. Reintegrative Programs**

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* <sup>54</sup>

*Rule 79*

All juveniles should benefit from arrangements designed to assist them in returning to society, family life, education or employment after release. Procedures, including early release and special courses, should be devised to this end.

*Rule 80*

Competent authorities should provide or ensure services to assist juveniles in re-establishing themselves in society and to lessen prejudice against such juveniles. These services should ensure, to the extent possible, that the juvenile is provided with suitable residence, employment, clothing and sufficient means to maintain himself or herself upon release in order to facilitate successful reintegration. The representatives of agencies providing such services should be consulted and should have access to juveniles while detained, with a view to assisting them in their return to the community.

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)* <sup>55</sup>

*Rule 28*

1. Conditional release from an institution shall be used by the appropriate authority to the greatest possible extent, and shall be granted at the earliest possible time.

2. Juveniles released conditionally from an institution shall be assisted and supervised by an appropriate authority and shall receive full support from the community.

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<sup>54</sup> *Supra*, note

<sup>55</sup> *Supra*, note

*Commentary*

The power to order conditional release may rest with the competent authority, as mentioned in Rule 14.1 or with some other authority. In view of this, it is adequate to refer here to the “appropriate” rather than to the “competent” authority.

Circumstances permitting, conditional release shall be preferred to serving a full sentence. Upon evidence of satisfactory progress towards rehabilitation, even offenders who had been deemed dangerous at the time of their institutionalisation can be conditionally released whenever feasible. Like probation, such release may be conditional on the satisfactory fulfilment of the requirements specified by the relevant authorities for a period of time established in the decision (i.e. relating to “good behaviour” of the offender, attendance in community programs, residence in half-way house, etc.).

In the case of offenders conditionally released from an institution, assistance and supervision by a probation or other officer (particularly where probation has not yet been adopted) should be provided and community support should be encouraged.

**10. Semi-Institutional Arrangements***Rule 29*

1. Efforts shall be made to provide semi-institutional arrangements, such as half-way houses, educational homes, daytime training centres and other such appropriate arrangements that may assist juveniles in their proper reintegration into society.

*Commentary*

The importance of care following a period of institutionalisation should not be underestimated. This Rule emphasises the necessity of forming a net of semi-institutional arrangements.

This Rule also emphasises the need for a diverse range of facilities and services designed to meet the different needs of young offenders re-entering the community and to provide guidance and structural support as an important step towards successful reintegration into society.

**11. Research, Planning, Policy Formation and Evaluation***Rule 30*

1. Efforts shall be made to organize and promote necessary research as a basis for effective planning and policy formulation.
2. Efforts shall be made to periodically review and appraise the trends, problems and causes of juvenile delinquency and crime as well as the varying particular needs of juveniles in custody.
3. Efforts shall be made to establish a regular evaluative research mechanism built into the system of juvenile justice administration and to collect and analyse relevant data and information for appropriate assessment and future improvement and reform of the administration.
4. The delivery of services in juvenile justice administration shall be systematically planned and implemented as an integral part of national development efforts.

#### *Commentary*

The utilisation of research as a basis for an informed juvenile justice policy is widely acknowledged as an important mechanism for keeping practices abreast of advances in knowledge and the continuing development and improvement of the juvenile justice system. The mutual feedback between research and policy is especially important in the forms and dimensions of juvenile crime. The societal and justice responses to juvenile crime and delinquency quickly become outmoded and inadequate.

Rule 30 thus establishes standards for integrating research into the process of policy formulation and application in juvenile justice administration. The Rule draws particular attention to the need for regular review and evaluation of existing programs and measures and for planning within the broader context of overall development objectives.

A constant appraisal of the needs of juveniles, as well as the trends and problems of delinquency, is a prerequisite for improving the methods of formulating appropriate policies and establishing adequate interventions, at both formal and informal levels. In this context, research by independent persons and bodies should be facilitated by responsible agencies and it may be valuable to obtain and to take into account the views of juveniles themselves, not only those who come into contact with the system.

The process of planning must particularly emphasise a more effective and equitable system for the delivery of necessary services. Towards that end, there should be a comprehensive and regular assessment of the wide-ranging, particular needs and problems of juveniles and an identification of clear-cut priorities. In that connection, there should also be a coordination

in the use of existing resources, including alternatives and community support that would be suitable in setting up specific procedures designed to implement and monitor established programs.

## **F. FOREIGN PRISONERS**

*Model Agreement on the Transfer of Foreign Prisoners*<sup>56</sup>

### Annex II Recommendations on the treatment of foreign prisoners

1. The allocation of a foreign prisoner to a prison establishment should not be effected on the grounds of his/her nationality alone.
2. Foreign prisoners should have the same access as national prisoners to education, work and vocational training.
3. Foreign prisoners should, in principle, be eligible for measures alternative to imprisonment, as well as for prison leave and other authorised exits from prison according to the same principles as nationals.
8. Contacts of foreign prisoners with families and community agencies should be facilitated, by providing all necessary opportunities for visits and correspondence, with the consent of the prisoner. Humanitarian international organisations, such as the International Committee of the Red Cross, should be given the opportunity to assist foreign prisoners.

## **G. NON-CUSTODIAL MEASURES**

### **1. General Principles**

#### *1.(a) Fundamental Aims*

*United Nations Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)*<sup>57</sup>

#### *Rule 1*

1. The present Standard Minimum Rules provide a set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment.

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<sup>56</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

<sup>57</sup> General Assembly Resolution 451110 of 14 December 1990.

2. The Rules are intended to promote greater community involvement in the management of criminal justice, specifically in the treatment of offenders, as well as to promote among offenders a sense of responsibility towards society.
3. All Rules shall be implemented taking into account the political, economic, social and cultural conditions of each country and the aims and objectives of its criminal justice system.
4. When implementing the Rules, member states shall endeavour to ensure a proper balance between the rights of individual offenders, the rights of victims, and the concern of society for public safety and crime prevention.
5. Member states shall develop non-custodial measures within their legal systems to provide other options, thus reducing the use of imprisonment, and to rationalise criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.

## 2. The Scope of Non-Custodial Measures

*United Nations Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)*<sup>58</sup>

### *Rule 2*

1. The relevant provisions of the present Rules shall be applied to all persons subject to prosecution, trial, or the execution of a sentence at all stages of the administration of criminal justice. For the purposes of the Rules, these persons are referred to as “offenders”, irrespective of whether they are suspected, accused or sentenced.
2. The Rules shall be applied without any discrimination on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. In order to provide greater flexibility consistent with the nature and gravity of the offence, with the personality and background of the offender and with the protection of society and to avoid unnecessary use of imprisonment, the criminal justice system should provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions. The number and types of non-custodial measures available should be determined in a way that consistent sentencing remains possible.
4. All development of new non-custodial measures should be encouraged and closely monitored and their use systematically evaluated.

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<sup>58</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

5. Consideration shall be given to dealing with offenders in the community avoiding as far as possible resort to formal proceedings or trial by a court, in accordance with legal safeguards and the rule of law.
6. Non-custodial measures should be used in accordance with the principle of minimum intervention.
7. The use of non-custodial measures should be part of the movement towards depenalisation and decriminalisation instead of interfering with, or delaying efforts in, that direction.

### 3. Legal Safeguards

*United Nations Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)*<sup>59</sup>

#### *Rule 3*

1. Law shall prescribe the introduction, definition and application of non-custodial measures.
2. The selection of a non-custodial measure shall be based on an assessment of established criteria in respect of both the nature and gravity of the offence and the personality and background of the offender, the purposes of sentencing and the rights of the victims.
3. Discretion by the judicial or other competent independent authority shall be exercised at all stages of the proceedings by ensuring full accountability and only in accordance with the rule of law.
4. Non-custodial measures imposing an obligation on the offender, applied before or instead of formal proceedings or trial, shall require the offender’s consent.
5. Decisions on the imposition of non-custodial measures shall be subject to review by a judicial or other competent independent authority, upon application by the offender.
6. The offender shall be entitled to make a request or complaint to a judicial or other competent independent authority on matters affecting his or her individual rights in the implementation of non-custodial measures.
7. Appropriate machinery shall be provided for the recourse and, if possible, redress of any grievance related to non-compliance with internationally recognised human rights.

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<sup>59</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders

8. Non-custodial measures shall not involve medical or psychological experimentation on, or undue risk of physical or mental injury to, the offender.
9. The dignity of the offender subject to non-custodial measures shall be protected at all times.
10. In the implementation of non-custodial measures, the offender's rights shall not be restricted further than was authorised by the competent authority that rendered the original decision.
11. In the application of non-custodial measures, the offender's right to privacy shall be respected, as shall the right to privacy of the offender's family.
12. The offender's personal records shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the offender's case or to their duly authorised persons.

#### **4. Post-Sentencing Disposition**

*United Nations Standard Minimum Rules for Non-Custodial Measures ("The Tokyo Rules")*<sup>60</sup>

##### *Rule 9*

1. The competent authority shall have at its disposal a wide range of post-sentencing alternatives in order to avoid institutionalisation and to assist offenders in their early reintegration into society.
2. Post sentencing dispositions may include:
  - (i) Furlough and half-way house
  - (ii) Work or education release
  - (iii) Various forms of parole
  - (iv) Remission
  - (v) Pardon

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<sup>60</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

## **5. Implementation of Non-Custodial Measures**

### **5.(a) Supervision**

*United Nations Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)*<sup>61</sup>

#### *Rule 10*

1. The purpose of supervision is to reduce reoffending and to assist the offender’s integration into society in a way that minimises the likelihood of a return to crime.
2. If a non-custodial measure entails supervision, a competent authority under the specific conditions prescribed by law shall carry out the latter.
3. Within the framework of a given non-custodial measure, the most suitable form of supervision and treatment should be determined for each individual case aimed at assisting the offender to work on his or her offending. Supervision and treatment should be periodically reviewed and adjusted as necessary.
4. Offenders should, when needed, be provided with psychological, social and material assistance and with opportunities to strengthen links with the community and facilitate their reintegration into society.

### **5.(b) Duration**

*United Nations Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)*<sup>62</sup>

#### *Rule 11*

1. The duration of a non-custodial measure shall not exceed the period established by the competent authority in accordance with the law.
2. Provision may be made for early termination of the measure if the offender has responded favourably to it.

### **5.(c) Conditions**

*United Nations Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)*<sup>63</sup>

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<sup>61</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders

<sup>62</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders

*Rule 12*

1. If the competent authority shall determine the conditions to be observed by the offender, he/she should take into account both the needs of society and the needs and rights of the offender and victim.
2. The conditions to be observed shall be practical, precise and as few as possible, and be aimed at reducing the likelihood of an offender relapsing into criminal behaviour and of increasing the offender's chances of social integration while taking into account the needs of the victim.
3. At the beginning of the application of a non-custodial measure, the offender shall receive an explanation, orally and in writing, of the conditions governing the application of the measure, including the offender's obligations and rights.
4. The conditions may be modified by the competent authority under the established statutory provisions, in accordance with the progress made by the offender.

**5.(d) Treatment Process**

*United Nations Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)*<sup>64</sup>

*Rule 13*

1. Within the framework of a given non-custodial measure, in appropriate cases, various schemes, such as case-work, group therapy, residential programs and the specialised treatment of various categories of offenders, should be developed to meet the needs of offenders more effectively.
2. Professionals who have suitable training and practical experience should conduct treatment.
3. When it is decided that treatment is necessary, efforts should be made to understand the offender's background, personality, aptitude, intelligence, values and, especially, the circumstances leading to the commission of the offence.
4. The competent authority may involve the community and social support systems in the application of non-custodial measures.

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<sup>63</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

<sup>64</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders

5. Case-load assignments shall be maintained as far as practicable at a manageable level to ensure the effective implementation of the treatment program.

6. For each offender, a case record shall be established and maintained by the competent authority.

### ***5.(e) Discipline and Breach of Conditions***

*United Nations Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)*<sup>65</sup>

#### *Rule 14*

1. A breach of the conditions to be observed by the offender may result in a modification or revocation of the non-custodial measure.

2. The competent authority shall make the modification or revocation of the non-custodial measure. This shall be done only after a careful examination of the facts adduced by both the supervising officer and the offender.

3. The failure of a non-custodial measure should not automatically lead to the imposition of a custodial measure.

4. In the event of a modification or revocation of the non-custodial measure, the competent authority shall attempt to establish a suitable alternative non-custodial measure. A sentence of imprisonment may be imposed only in the absence of other suitable alternatives.

5. The power to arrest and detain the offender under supervision in cases where there is a breach of the conditions shall be prescribed by law.

6. Upon modification or revocation of the non-custodial measure, the offender shall have the right to appeal to a judicial or other competent independent authority.

## **6. Staff**

### ***6.(a) Recruitment***

*United Nations Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)*<sup>66</sup>

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<sup>65</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders

<sup>66</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

*Rule 15*

1. There shall be no discrimination in the recruitment of staff on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status. The policy regarding staff recruitment should take into consideration, national policy affirmative action and reflect the diversity of the offenders to be supervised.
2. Persons appointed to apply non-custodial measures should be personally suitable and, whenever possible, have appropriate professional training and practical experience. Such qualifications shall be clearly specified.
3. To secure and retain qualified professional staff, appropriate service status, adequate salary and benefits commensurate with the nature of the work should be ensured and ample opportunities should be provided for professional growth and career development.

**6.(b) Staff Training**

*United Nations Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)*<sup>67</sup>

*Rule 16*

1. The objective of training shall be to make staff clearly understand their responsibilities with regard to rehabilitating the offender, ensuring the offender’s rights and protecting society. Training should also give staff an understanding of the need to cooperate in and coordinate activities with the agencies concerned.
2. Before entering duty, staff shall be given training that includes instruction on the nature of non-custodial measures, the purposes of supervision and the various modalities of the application of non-custodial measures.
3. After entering duty, staff shall maintain and improve their knowledge and professional capacity by attending in-service training and refresher courses. Adequate facilities shall be made available for that purpose.

**7. Volunteers and Other Community Resources****7.(a) Public Participation**

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<sup>67</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

*United Nations Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)*<sup>68</sup>

*Rule 17*

1. Public participation should be encouraged as it is a major resource and one of the most important factors in improving ties between offenders undergoing non-custodial measures and the family and community. It should complement the efforts of the criminal justice administration.
2. Public participation should be regarded as an opportunity for members of the community to contribute to the protection of their society.

**7.(b) Public Understanding and Cooperation**

*United Nations Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)*<sup>69</sup>

*Rule 18*

1. Government agencies, the private sector and the general public should be encouraged to support voluntary organisations that promote non-custodial measures.
2. Conferences, seminars, symposia and other activities should be regularly organised to stimulate awareness of the need for public participation in the application of non-custodial measures.
3. All forms of the mass media should be utilised to help create a constructive public attitude, leading to activities conducive to a broader application of non-custodial treatment and the social integration of offenders.
4. Every effort should be made to inform the public of the importance of its role in the implementation of non-custodial measures.

**7.(c) Volunteers**

*United Nations Standard Minimum Rules for Non-Custodial Measures (“The Tokyo Rules”)*<sup>70</sup>

*Rule 19*

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<sup>68</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders

<sup>69</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

<sup>70</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

1. Volunteers shall be carefully screened and recruited on the basis of their aptitude and interest in the work involved. They shall be properly trained for the specific responsibilities to be discharged by them and shall have access to support and counselling from, and the opportunity to consult with, the competent authority.
2. Volunteers should encourage offenders and their families to develop meaningful ties with the community and a broader sphere of contact by providing counselling and other appropriate forms of assistance according to their capacity and the offenders' needs.
3. Volunteers shall be insured against accident, injury and public liability when carrying out their duties. They shall be reimbursed for authorised expenditures incurred in the course of their work. Public recognition should be extended to them for the services they render for the well-being of the community.

## **PART TWO: PROPOSED PRISON POLICY**

### **A. CASE MANAGEMENT POLICY**

#### **1. Definition**

Case management is an all encompassing term which refers to the initiatives that are taken to ensure that the period of time of a sentence is most effectively used by an inmate.

Case management includes:

- (i) Initial classification
- (ii) Unit program delivery
- (iii) Inmate counselling and sentence planning
- (iv) Reclassification or integration
- (v) Community re-entry
- (vi) File maintenance

#### **2. Responsibilities of Corrections Staff**

The warden of each institution shall assign one or more experienced correctional staff to coordinate and supervise the case management process in that unit.

While selected staff in a unit may have a primary responsibility for sentence planning with inmates, all correctional staff have a responsibility to participate in inmate counselling.

Day to day counselling involves:

- (a) giving advice on resources, activities, and programs,
- (b) giving advice on life skills and consequences of behaviour or decisions, and
- (c) acting as a resource to inmates in dealing with personal problems.

## **B. CLASSIFICATION OF INMATES**

### **1. Initial Classification**

Initial classification will occur as soon as possible after sentenced admission, and will result in a report that provides information about the inmate, indicates the initial classification, and provides suggestions to the centre for ongoing planning.

The purpose of initial classification is to determine the proper level of security, supervision, control, and programming for each inmate. This allows for:

- (i) The constructive use of the inmate's time
- (ii) The use of penalty and reparation where needed
- (iii) Community satisfaction in relation to the treatment of the inmate

### **2. Classification Procedure**

see also V SECURITY

#### ***2.(a) Time Limit***

Subsequent to sentencing, the initial classification of an offender shall be completed within forty-eight hours (two working days) of admission to a prison.

The classification process is considered to include interviewing the offender, gathering and considering relevant documentation, completing the classification report and advising the offender of the classification decision.

#### ***2.(b) Sources***

The classification officer shall have access to an organised system to obtain, as available:

- (i) Pre-sentence reports
- (ii) Judicial reasons for sentence
- (iii) Police reports
- (iv) Psychiatric/psychological reports
- (v) Existing correctional documentation/information concerning an offender undergoing the classification process

The intent is to ensure that full and appropriate information is available to classification staff as a function of routine operation.

### ***2.(c) Interviews***

#### **2.(c)(i) General**

Every sentenced offender undergoing the classification process shall be interviewed in person by a classification officer prior to any classification decision being taken.

The purpose of the interview is to ensure appropriate initial classification of each inmate.

The interview conducted by the classification officer shall be held in private unless need is evidenced for other persons to be present to assist the offender in understanding the process.

#### *Discussion:*

The content of a classification interview is often of a sensitive nature. Discretion is required in conducting these interviews and a private environment, free of unnecessary interruption, shall aid in achieving the purpose of the interview.

#### **2.(c)(ii) Informing the Offender**

Each offender, at the time of the first interview for classification purposes, shall be advised of:

- (i) The scope and intent of the sentence management process
- (ii) The scope and intent of the classification and placement process
- (iii) The options available to the classification officer
- (iv) The criteria used for decision-making by the classification officer
- (v) The roles that the offender can play in the classification and placement decision-making process
- (vi) The right to appeal any classification and/or placement decision

The intent of the standard is to ensure that offenders understand the nature of the classification and placement process and are able to play a suitable role within that process.

#### **2.(c)(iii) Nature of Interview**

The interview will include:

- (i) A review of the inmate's file(s) and of the other written material available, including recommendations from judges and probation officers
- (ii) The inmate's verification of the written information and the addition of any other information he/she provides

- (iii) The development of a sentence plan that indicates the purpose of the inmate's placement
- (iv) An explanation to the inmate of the meaning and significance of classification

#### 2.(c)(iv) Relevant Information

Relevant information gathered prior to a classification interview shall be discussed with the offender by the classification officer, except where disclosure:

- (a) would defeat the purpose or prejudice the use for which the information was collected,
- (b) would prove injurious to law enforcement or lawful investigations, or
- (c) could reasonably be expected to threaten the safety of individuals.

In the course of an effective classification interview, the interviewing officer should corroborate existing information with the offender rather than simply accepting all information at face value.

Determining which information should not be revealed to the offender is the responsibility of the classification officer.

#### 2.(c)(v) Result

At the conclusion of the interview, the classification officer will tell the inmate where he/she has been assigned and the estimated time of the transfer, except where security conditions do not permit such disclosure.

#### **2.(d) Report**

The classification officer shall, in every case, be responsible for the preparation of a legible report over the officer's signature, specifically identified as a classification report.

#### 2.(d)(i) Contents (Alternative 1)

The report shall consist of parts including, but not restricted to, the following:

- (i) Information relevant to sentence, court history, personal and family history, medical and psychiatric concerns, education and work background, offence or imprisonment problem areas, community resources, and post-release plans
- (ii) A sentence plan illustrating the classification decision, proposed reclassification processes, specific classification criteria considered, and case management recommendations and expectations

In formulating the report, the classification officer should consider any available relevant reports such as pre-sentence reports, police reports, institutional reports, judges' and/or probation officers' recommendations, and psychiatric/psychological and/or medical reports.

### 2.(d)(ii) Contents (Alternative 2)

The classification officer will prepare a classification report that covers as many of the following areas as are relevant:

#### 1. Information:

- Sources of information
- Details of the sentence
- Previous contact with correctional institutions
- Personal and family information
- Medical and psychiatric concerns
- Educational background and work history
- Problem areas related to the offence or imprisonment
- Community resources and release plans

#### 2. The sentence plan:

- The classification decision
- Proposed reclassification, including the specific date of review
- Specific classification criteria considered
- Recommendations for case management consideration
- Future sentence expectations (for those placed in secure custody)

The classification officer will advise the prison warden director or his/her delegate about any special concerns he/she may have about an inmate. The warden will advise the correctional centre's staff accordingly.

If a classification officer wants to make a placement that is an exception to this policy, he/she will discuss it with the director, the sending correctional centre, and then with the classification officer, or warden of the receiving prison. The warden of the receiving prison may grant the exception after consultation with the classification officer and the director of the sending prison.

### ***2.(e) Reviews of a Classification***

When an inmate disagrees with a classification decision, is transferred against his/her will or is denied a transfer, the classification officer shall:

- (a) ensure that the reasons have been thoroughly explained to the inmate;
- (b) where, on security or other grounds, it is not in the interest of the institution or the inmate to disclose the reasons to the inmate, they shall nevertheless be recorded and placed on the transfer log in the warrant file;
- (c) advise the inmate that a request may be made to the prison warden, or next appropriate level for the reasons to be stated in writing; and

(d) advise the inmate of the grievance procedures.

### **3. Classification Officers' Responsibilities**

Classification officers' responsibilities for classification and sentence planning include:

1. Assigning or reassigning inmates in any of the following ways:
  - (i) From court to any prison
  - (ii) From one secure prison to another
  - (iii) From a secure prison to an open one, or vice versa
  - (iv) From one open prison to another
  - (v) From an open or secure prison to a community correctional centre, or vice versa
  - (vi) From one region to another
2. Informing correctional centres about arriving inmates and providing sentence plans that include suggestions for case management and, where appropriate, for reclassification of inmates.
3. Making recommendations to the prison warden, with respect to inmate transfer applications under international, state, inter-state agreements for inmate transfers.

### **4. Program Analyst's Responsibilities**

Besides maintaining and developing inmate classification and other sentence management policies and procedures, the program analyst's responsibilities also include:

- (i) Providing the prison service with a profile of the inmate population and recommending a suitable distribution of inmates among correctional centres
- (ii) Advising the prison service on classification criteria and on standards for judging inmates according to those criteria
- (iii) Recommending criteria for assigning inmates to specific correctional centres
- (iv) Keeping the prison service informed about the programs of each correctional centre
- (v) Negotiating and managing agreements for inmate transfers

### **5. Criteria for Assigning Inmates**

#### ***5.(a) Guiding Principles***

Prisons/correctional centres are classified as secure, open or community. An institution may be designed to receive inmates of specific classifications.

Inmates will be assigned to an open correctional centre unless they meet the criteria for assignment to a secure or community correctional centre.

Unless they are assigned to special programs that prevent it, inmates should be assigned to correctional centres as close to their homes as security levels and bed space permit.

Every offender shall be classified to and placed in a prison which:

- (a) affords no greater security than is demonstrably necessary to meet the needs and risks of the offender;
- (b) offers programs which are designed to meet the correctional needs of the offender; and
- (c) is the closest institution to the offender's home community which satisfies the elements stated above.

Unless a substantial reason exists for not doing so, a classification officer shall classify and place an offender in any program that has been recommended by the sentencing judge.

***5.(b) Criteria for Assigning Inmates to Secure Centres***

An inmate should normally be sent to a secure prison when:

1. He/she is judged to be dangerous to the community because:
  - (a) he/she has a pattern of convictions for violent offences;
  - (b) police information links him/her directly to violent and destructive behaviour;
  - (c) professional opinion indicates that he/she is unpredictable, likely to assault; or
  - (d) his/her violent or aggressive behaviour makes him/her a risk to staff or to other inmates.
2. He/she is judged as likely to attempt escape, because:
  - (a) he/she has attempted escape during his/her present sentence;
  - (b) he/she has attempted escape during previous sentences;
  - (c) he/she has committed further offences, and has been convicted for them while on escape; or
  - (d) his/her attitude and behaviour have not noticeably improved since previous escapes.
3. His/her behaviour makes him/her a serious management problem, because:
  - (a) he/she disrupts programs for other inmates;
  - (b) he/she intimidates other inmates;
  - (c) he/she continually violates rules and regulations; or
  - (d) he/she has not responded to discipline by changing his/her behaviour.

4. The information about his/her background is insufficient to determine the level of security he/she requires, because:
- (a) he/she was evasive during his/her interview;
  - (b) the information he/she gave contradicts what is already known about him/her;
  - (c) there is a need to verify finger print section information, previous involvement with drugs, or previous responses to correctional programs; or
  - (d) his/her attitude toward other inmates needs clarification.
5. A medical or psychological assessment is needed to help classify him/her because:
- (a) he/she has a background of instability, suggesting that he/she may be violent;
  - (b) he/she appears to have social or intellectual deficiencies that make placement difficult;
  - (c) he/she shows evidence of being emotionally disturbed; or
  - (d) he/she has a mental or physical condition that requires hospital care.
6. Where the inmate is awaiting trial on further criminal charges or has other legal matters pending that warrant his/her placement in a secure correctional centre, he/she should be assigned to a secure correctional centre if:
- (a) the outstanding prison court matters are more serious than the ones for which he/she is serving a sentence;
  - (b) he/she has been remanded in custody on these matters;
  - (c) he/she has a pattern of failing to appear at court, which shows disregard for court-imposed sanctions;
  - (d) the details of the outstanding matters are not clear;
  - (e) he/she is under investigation for a crime, but not yet charged;
  - (f) police have placed a detain and hold on file, noting outstanding charges that have not been heard in court;
  - (g) he/she needs to be readily available for legal counsel;
  - (h) the crown is appealing his/her sentence;
  - (i) his/her instability suggests that he/she cannot cope with the anxieties of his/her situation;
  - (j) his/her deportation has been ordered, and he/she is considered an escape risk; or
  - (k) he/she is serving a sentence for a serious offence and a decision about his/her deportation is still pending.
7. He/she meets the criteria for assignment to an open correctional centre, but has been assigned to a special program only available at a secure prison.
8. Inmates identified as suicidal or violent shall be classified to and remain in secure custody until such security alerts have been removed. Protective custody inmates may

be classified from secure custody to lesser security while that security alert remains in effect.

### ***5.(c) Criteria for Assigning Inmates Directly to Community Correctional Centres***

An inmate may be assigned directly to a community correctional centre if he/she meets the following classification criteria:

1. His/her criminal behaviour is judged not to be a direct threat to the community, because:
  - (a) the offences were non-violent;
  - (b) the offences appear to be isolated, not part of a pattern; and
  - (c) the judge recommends assignment to a community correctional centre.
  
2. He/she is:
  - (a) employed or seeking employment;
  - (b) registered at school or seeking to be registered; or
  - (c) is suitable for an in-house program because:
    - (i) his/her life pattern, including family relationships, is stable;
    - (ii) he/she manages finances responsibly;
    - (iii) he/she readily accepts authority and the limitation of his/her sentence of imprisonment.
  
3. A temporary absence can be expedited.
  
4. The court's intent in imposing the sentence of imprisonment would not be compromised.

## **6. Reclassification**

### ***6.(a) Objective***

There are four objectives to reclassification:

- (i) To review the change in circumstances since the initial classification
- (ii) To amend the classification report
- (iii) To reclassify the inmate according to the new information
- (iv) To meet intent of original sentence management plan

### ***6.(b) Procedure***

A classification review or file review can be initiated by an inmate or prison staff.

Inmates who request reclassification must outline their reasons in writing, and submit the request through the warden. The warden will add his/her comments and forward the request to the classification officer within two working days from the time he/she receives it.

A prison warden who disagrees with a specific inmate's classification will respond with a reclassification request.

Reclassification requests initiated by the prison must be made in writing and be accompanied by a summary of the inmate's progress log.

Within two working days of receiving a request for reclassification, the classification officer will review the inmate's file and conduct an interview if necessary, except in the case of isolated centres. If, for any reason, the sentence management unit cannot respond within two working days, the classification officer will advise the warden by telephone of the delay.

The classification officer will advise the warden of the results of the reclassification review, and be available to discuss them. The warden will advise the appropriate members of the prison's staff of the outcome.

An offender may be temporarily reclassified to a higher level of security. When the higher security period is complete, he/she will, under normal circumstances, be returned to the institution from which he/she came.

Where an application for temporary absence is approved and the inmate is to reside in a community correctional centre for the purpose of the temporary absence, the inmate will be transferred to that centre in accordance with the transfer.

#### ***6.(c) Criteria for Reassigning Inmates to a Community Correctional Centre***

An inmate may be reclassified for assignment to a community correctional centre if he/she meets the following classification criteria:

He/she is not considered a danger to the community because:

- (a) he/she has no violent offence on record, or has shown by behaviour in the correctional system that he/she is no longer likely to be violent; and
- (b) he/she is not considered likely to attempt escape.

He/she has shown that he/she can assume the responsibility needed to live in a community correctional centre because:

- (a) all aspects of his/her behaviour are acceptable; and
- (b) the staff at his/her present centre recommends him/her for that level of supervision.

He/she is considered suitable for the program operated by the community correctional

centre.

## **C. SENTENCE PLANNING**

### **1. General Comments**

Sentence planning is a process that involves assisting inmates to make effective use of their sentence.

Each inmate shall be assigned to an individual staff member who will ensure that the sentence planning process is effectively carried out for that inmate. The staff member:

- (a) identifies programs, activities, and opportunities available to the inmate within the prison services and in the community,
- (b) helps the inmate to establish goals and objectives, and
- (c) gives advice regarding procedures required, forms required, and key dates for community re-entry.

Progress Files

see I ADMINISTRATION

Regular entries shall be made in the progress log and the officer in charge of the unit shall personally review all progress logs monthly.

### **2. Distribution of Information**

The warden will ensure that each inmate is advised of activities, programs and opportunities that are available. The inmate is responsible for availing him/herself of those opportunities.

### **3. Program Description**

Each prison warden director will provide the program analyst with a program description suitable for inmates who meet the classification criteria for secure prisons, open or community correctional centre facilities. The description will be updated annually, or when the criteria for inmates assigned to the program change, or when there is a change in the program.

The following format will be used for program description:

- (i) Location (identifying specific criteria related to the management of inmates)
- (ii) Living arrangements (type, number and resources such as medical facilities, isolation cells, etc.)
- (iii) Case management strategies and objectives

## D. CORRECTIONAL PROGRAMS

### 1. Educational Programs

#### 1.(a) *Library*

##### 1.(a)(i) Policy Objectives

The primary objectives of the library service are to facilitate the self-improvement of the inmate through the provisions of reference material including legal information or recreational reading.

A secondary objective is to create a pleasant environment within the institution similar to libraries in the community.

##### 1.(a)(ii) Librarian

The librarian will be responsible for the daily operation of the library, including the selection, ordering, cataloguing, maintenance, recording and control of all reading material.

The librarian shall be responsible for the purchase and distribution of all books, subscriptions, etc. for other institutional departments under instructions from the relevant department.

The librarian shall seek input from other institutional departments such as recreation, arts and crafts, vocational development and education when preparing orders for books and periodicals.

The librarian shall seek advice to establish procedures to be used in the event of such emergencies as riots, fires, injuries or drug incidents.

The librarian shall immediately notify the officer in charge of any behavior problems that are encountered in the library.

The librarian shall train an inmate as assistant librarian in the operation and procedures of the library as well as the maintenance and care of the library stocks.

##### 1.(a)(iii) Hours of Operation- Model

The hours of the library, unless otherwise specified by administration, shall be:

Main Library  
Monday to Friday  
1300 - 1545 hours  
1800 - 2100 hours

Saturday and Sunday  
1800 - 2100 hours

Law Library  
Monday to Friday  
0830 - 1045 hours  
1300 - 1545 hours  
1800 - 2100 hours (only on request)

Only two inmates are to be in the law library at one time.

The library will be closed in the mornings to the general population. However, by appointment only the librarian will be available to assist inmates who encounter any problems relating to purchasing books, periodicals or any other problems that are under the library's jurisdiction.

All inmates shall require passes when visiting the library. The only exceptions when passes are not required are:

Monday to Friday  
1800-2100 hours

Saturdays and Sundays

#### 1.(a)(iv) Rules

The librarian shall process all inmate book purchases and periodical subscriptions and shall distribute them after recording on effect cards held in the library. Procedures to be followed are:

- (i) Inmate shall fill out the application form
- (ii) If all relevant personnel approve request, the librarian shall order materials
- (iii) If an inmate does not have sufficient funds, and requests family or friends pay for the books or periodicals, then similar procedures shall be followed whereby the effects form shall be approved first and then the item shall be sent in care of the librarian directly from the publisher or bookstore only, with no personal enclosures
- (iv) If this procedure has not been followed, any unauthorised packages, books, periodicals, and so on, received at the institution shall be returned to the sender at the sender's expense
- (v) The above procedures shall be fully explained to the inmates at the time of reception into the institution as part of the orientation

No reference material shall be removed from the library without special permission from the librarian, and only if material required is related to an authorised program supported by the educational department.

Newspapers and magazines shall be read in the library. Back issues of magazines and newspapers shall be sent to dissociation.

Inmates with overdue material will be sent one overdue notice on a Thursday and if book(s) are not returned by the following Sunday evening, the individual will have his/her privileges withdrawn for a thirty day period and issued an activity record. Inmates shall be required to pay for lost or damaged material.

Inmates will normally have access to those publications and reading materials that are available to the general public, except for those publications:

- (a) registered on the regional list of banned publications; and
- (b) deemed by the warden to threaten the good order and security of the institution, or the successful rehabilitation of the inmate.

No reference material shall be removed from the legal section.

Only two inmates are to be in the legal section at one time.

A section will be established containing large type books for the individual inmates with varying degrees of visual impairment.

No card playing or board games are to be played in the library.

### ***1.(b) Arts and Crafts Program***

#### **1.(b)(i) The Program**

The arts and crafts program shall be comprised of a combination of formal instructional classes and informal ongoing individual involvement.

Formal classes may be instructed by the arts and crafts instructor, an inmate instructor, a volunteer from the community, or by a contracted instructor where funds permit.

For the informal part of the arts and crafts program, inmates must supply their own materials and supplies.

#### **1.(b)(ii) Hobby Permit**

Every inmate involved in an arts and crafts activity shall have a hobby permit issued by the arts and crafts instructor in consultation with the individual program plan team.

The arts and crafts instructor shall provide hobby permit statistics to the unit manager on a quarterly basis.

Each inmate shall be informed of rules and regulations affecting arts and crafts activities by the arts and crafts instructor prior to the issuing of a hobby permit.

A hobby permit may be cancelled if the hobby privilege is abused.

Hobby permits may be changed by request after a time judged to be reasonable by the arts and crafts instructor.

1.(b)(iii) Working Area Restrictions

All arts and crafts activities shall be restricted to the hobby shop and living unit as approved. Hobby items found outside of these areas shall be considered contraband except items for sale in visits and correspondence.

1.(b)(iv) Hobby Shop Supervision

Hobby shop supervision shall be done by the arts and crafts instructor or by a correctional officer if the arts and crafts instructor is off duty.

1.(b)(v) Hours of Operation- Model

All arts and crafts activities shall take place during leisure hours only. Hours of operation of the hobby shop shall be posted and are as follows:

Weekdays:

1400 hours - 2130 hours

Weekends and Holidays:

0830 hours - 1100 hours

1300 hours - 1600 hours

1800 hours - 2130 hours

When supervision permits.

1.(b)(vi) Disposal of Finished Products

Finished hobby work shall be disposed of in the following ways:

1. Products may be sold through approved channels to persons other than penitentiary inmates, with proceeds credited to the inmate's account. All items put up for sale are done so at the inmate's own risk, and must be ticketed by the arts and crafts instructor. Staff shall not profit from the sale of inmate hobbies.
2. Products bearing sales tags issued by the arts and crafts instructor may be given to approved visitors by the inmates.
3. Products may be given to, or mailed at the inmate's expense to approved visitors.

4. When an inmate completes hobby piece and wishes to sell or consign it, he/she may attach a price to it. The hobby officer is the staff member who is responsible for authenticating and verifying the asking price for any piece of hobbycraft based on cost of material, labour involved and aesthetic qualities.

If the inmate does not agree with the judgement of the hobby officer, the inmate can forward the article at his/her expense to his/her next of kin for no price.

Only the listed price will be returned to the inmate upon sale at the institution or after consignment.

Any funds coming to an inmate for hobby sales where no merchandise has been forwarded will be returned to the sender.

Hobby works will be sent as gifts or consigned to family members on approved visitors lists only. Consignments are also allowed to reputable dealers.

#### 1.(b)(vii) Storage

Finished hobby work products shall not be stored in the inmate's personal effects or kept in the living unit cells.

#### 1.(b)(viii) Security Procedures

All institutional hobby tools must be marked, color coded and accounted for daily. This shall be done by using a shadow board for all small hand tools. All missing tools must be reported to security immediately.

The hobby officer controls all poisonous, toxic and hallucinogenic materials.

Possession of such materials outside of the hobby shop is contraband.

Efforts are made to substitute dangerous materials with water based products.

At the end of each day of program, the hobby shop shall be secured by locking all tool cabinets, the office door and all access doors. At least one light shall be left on for the benefit of the security patrol.

The institutional hobby tools must not be removed from the hobby shop.

#### 1.(b)(ix) Safety Procedures

The arts and crafts instructor shall ensure that all tools and equipment are properly maintained and in safe working order. All tools requiring repair shall be taken out of use until repairs are made.

The arts and crafts instructor shall ensure that inmates using power equipment are properly trained for its use.

The arts and crafts instructor shall ensure that the hobby shop is maintained in a clean and tidy condition to eliminate fire and accident hazards.

#### 1.(b)(x) Limitations

The arts and crafts instructor shall ensure that no inmate accumulates a large supply of raw materials or partially finished projects. Any inmate who is in possession of what is deemed by the arts and crafts instructor as too large a quantity of hobby materials shall not be allowed to purchase more materials until existing materials have been disposed of. The arts and crafts instructor may set specific limits on certain hobby projects such as lamps, furniture, and so on, to enforce this regulation.

### **3. Recreational Activities**

#### **3.(a) General**

Every correctional centre shall provide and/or ensure inmate access to:

- (i) An indoor recreational area specifically designed for a variety of sports and recreational activities
- (ii) An indoor recreational area suitable for organised sports activities of both group and individual nature
- (iii) A library (see above)
- (iv) An area designed and equipped for arts and crafts (see above)

The four facilities listed above should be arranged in the community if they are not available on the grounds of the institution.

Every correctional centre shall designate an officer to plan, implement and coordinate recreational programs utilising the recreational areas.

The director of a correctional centre shall, to the extent that is practicable in the prevailing circumstances, utilise available community personnel and facilities of the provision of recreational programs.

Participation in recreational programs shall be voluntary on the part of inmates.

Participation in recreation should be encouraged, rather than compulsory.

All correctional centres shall provide programs and facilities to ensure opportunities of the exercise and recreation of inmates whose access to regular programs may be limited for security or other appropriate reasons.

The standard refers to those inmates who may be segregated from the main population for assignment to specialised living units or disciplinary segregation.

### ***3.(b) Operation of Program***

Whenever possible, activities shall be run by inmates who are under supervision of recreation staff.

Weekly recreational activities shall be indicated on the weekly recreation schedule including regular and special activities published by the recreation department.

With the help of inmates assigned to the recreation crew, recreation staff shall see that all facilities and equipment are in good condition. An inventory of all major equipment shall be kept up-to-date.

At the end of an afternoon or evening of recreation programs, all equipment shall be put away, all recreation areas shall be checked, all doors shall be locked and lights turned out (except for security lighting), radio and other electrical equipment shall be turned off.

For community groups or individuals coming into the institution to take part in recreation programs, the institutional preventive security officer shall be notified two weeks in advance. A list of names, addresses and birth dates of all such visitors shall be submitted to the institutional preventive security officer for clearance.

### ***3.(c) Relationships with Other Departments***

The recreation department shall be in continuous cooperation with the correctional operations and offender management teams, as they are concerned with the interests, welfare and behaviour of each inmate.

The recreation department shall relate to the health care services staff for anything that involves the physical or mental welfare of inmates. Health care officers shall be advised of any injuries or other physical conditions suffered by inmates that are observed by the recreation staff. They shall be consulted with regards to programs of fitness testing that are administered to inmates by recreation staff.

The recreation department shall cooperate with the education department in running formal physical education classes or other credit and non-credit recreation courses.

The recreation department shall, whenever necessary, consult any other department concerned with such matters as purchasing, finance, maintenance, or institutional services, by following the proper procedures set down by each respective department.

### ***3.(d) Emergency Procedures***

The recreation department shall be aware of all established procedures used in the event of such emergencies as escapes, riots, fires, injuries, or drug incidents, etc.

## **4. Work Programs**

### ***4.(a) Objective***

The prison shall provide sufficient institutional work program opportunities for all sentenced inmates.

An inmate work program may include industrial, agricultural maintenance and service jobs, and shall ensure full-time employment for all eligible sentenced inmates. Sufficient jobs should be provided to ensure that no idleness is created through lack of programs.

A traditional concern around the employment of inmates is that of the value of the work provided. These standards assume that work sold is constructive and of real value, comparable to work that is both necessary and available outside of the institution.

In order to approximate a non-institutional working environment, no more inmates than necessary should be assigned to a given work area. Job opportunities available in the institution should provide opportunities to learn job skills and develop acceptable non-institutional work habits.

The inmate working day shall be structured as to approximate the working day in the community. The intent is to familiarize inmates with work habit expectations in the community. To the extent possible, scheduling of counts and other institutional activities should not interfere with the working day of inmates.

### ***4.(b) Classification***

Notwithstanding other classification decisions, every inmate shall be classified to one of the following classifications prior to any decisions regarding work, education and recreation being taken:

- (i) Inmate is fit for full work, competitive sports and physical training
- (ii) Inmate is fit for full work, but not rigorous work, and full physical training, but no competitive sports
- (iii) Inmate has a medical condition and is fit for light work only and the level of physical training shall be modified by medical classification

- (iv) Inmate requires medical supervision and is fit for very light duties and minimal activity in the form of hobbies only
- (v) Inmate is not fit for work of any kind or physical training of any kind

The above classification decisions are the responsibility of a qualified health care professional at the time of intake into a prison.

#### ***4.(c) Placement***

Initial placement will be made according to requirements of the operations at the time.

Factors taken into consideration for initial placement will be:

- (i) Age
- (ii) Physical condition
- (iii) Past work history and experience
- (iv) Recommendations from previous work supervisors

#### ***4.(d) Review of Placements***

Each individual's work/placement shall be reviewed at the first work board after his/her arrival and at subsequent work boards thereafter, to ensure that placements are in line with CMS needs identified in the front end assessment.

The work board shall make every effort to place inmates in programs in as timely a manner as possible.

#### ***4.(e) Work Remuneration***

There shall be a system of equitable remuneration of the work of prisoners.

Under the system, prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their families.

The system should also provide a part of the earnings to be set aside by the administration so as to constitute a savings fund to be handed over to the prisoner on his/her release.

### **5. Religious Programs**

#### ***5.(a) Availability of Clergy/Spiritual Advisors***

All persons in custody shall have the right of access to clergy and/or spiritual advisors of any group which meets the following criteria:

- (i) Either there is:

- (a) an informal association of persons who share common ethical, moral or intellectual views supporting a particular practice, or
- (b) there is a formal, organised worship of shared belief by a recognised and cohesive group supporting the practice.
- (ii) There is substantial literature supporting the practice as related to religious principle
- (iii) The offender deeply and sincerely holds a particular belief
- (iv) The belief fosters positive spiritual attitudes towards the individual, society and creation

Further, the following criteria should not be considered as indicative of a lack of religious support for the practice in question:

- (i) The belief is held by a small number of individuals
- (ii) The belief is of recent origin
- (iii) The belief is not based on the concept of a supreme being or the equivalent
- (iv) The belief is unpopular or controversial

### ***5.(b) Chaplain***

#### 5.(b)(i) Chaplain's Responsibilities

The chaplain:

- (a) provides pastoral counselling and assistance to inmates and their families;
- (b) originates, coordinates and develops spiritual and religious programs of a rehabilitative nature;
- (c) serves as an ad-hoc member of the inmate program planning team;
- (d) communicates to the community both the needs of the offender in the institution and the public goal in helping to re-enter the community;
- (e) is responsible for the supervision of part time chaplains; and performs other duties.

A flexible work schedule shall be necessary to carry out some of the above duties.

#### 5.(b)(ii) Contacts

The institutional chaplain shall maintain contacts with his/her own respective bishop, his/her specific religious order, other designated authorities of the various religious denominations represented in the institution, special agencies, hospitals (mental and physical), local movements and any other agency that is deemed advantageous and necessary toward the rehabilitation of the inmate or helpful towards the inmate's family.

#### 5.(b)(iii) Presence

The chaplain shall provide a visible presence in and about the institution and through this presence provide pastoral counselling and spiritual support to inmates, families and staff as appropriate by the following means:

- (i) Through being an actual living experience of the faith dimensions of life
- (ii) Through presenting a theological interpretation of human existence and experience
- (iii) Through expressing the prophetic dimension of ministry and priesthood
- (iv) Through dealing with issues of faith and relationship with God
- (v) Through being seen and present throughout the institution, representing the spiritual dimension of life, while maintaining a holistic understanding of life
- (vi) Through visiting around the institution, particularly where inmates do not have free movement such as dissociation, hospital, protective custody unit, special handling unit and segregation unit as well as the shops, schools, gyms, living units, cell ranges and visits and correspondence areas
- (vii) Through pastoral counselling both on an individual and group basis
- (viii) Through pastoral encounter dealing with life's meaning, forgiveness, guilt, anger, hostility, pain, aloneness, loneliness, power, grace, self-worth, acceptance, death, trust, health, grief and other significant components of human existence and experience
- (ix) Through referring to and consultation with appropriate staff and groups, such as custody, leisure activities, psychologists, case management officers, Alcoholics Anonymous, Native Brotherhood, etc.
- (x) Through crisis intervention in experiences such as grief, illness, despair, death, anger, depression, parole denial and suicide attempts
- (xi) Through involvement with families

#### 5.(b)(iv) Worship and Sacramental Ministries

The chaplain shall originate, direct and coordinate religious services and sacramental ministries to inmates, by the following means:

- (i) Through designing worship services, prayer life, liturgy, sermons and homilies relevant to the correctional milieu
- (ii) Through conducting appropriate weekly worship services and/or masses, masses or worship services for holy days and significant days and seasons throughout the religious calendar
- (iii) Through designing and conducting special services, such as funerals, and addressing the stress and anger generated by death within an institution
- (iv) Through coordinating religious visitors for inmates of minority religious expression within the institution, such as Jewish, Native, Mormon, Quaker, Jehovah's Witness, Muslim, Hindu, Buddhist and others
- (v) Through developing a ministry to meet unique crises and special situations with liturgy and worship
- (vi) Through creating and maintaining a "sanctuary" atmosphere within the chapel

### 5.(b)(v) Religious Education

The chaplain shall create, coordinate and develop religious programs and spiritual growth of inmates, such as bible study and retreats, through:

- (i) Designing, developing, conducting, evaluating and modifying programs and activities in the area of Religious/Christian education
- (ii) Pursuing and developing personal talents and interests of inmates using a multiplicity of audio-visual, musical and curriculum models
- (iii) Conducting prayer and bible study groups
- (iv) Training chapel volunteers to be involved in Religious/Christian education programs
- (v) Designing, developing, conducting, evaluating and modifying chapel programs such as Kairos (Marathon) groups, cursillos, Yokefellow groups, retreats, seminars, etc.
- (vi) Administering, ordering supplies, pass lists, custodial and institutional procedures as necessary to function with a correctional milieu
- (vii) Purchasing, acquiring and distributing religious literature and materials

### 5.(b)(vi) Fostering Community Involvement

The chaplain shall present to the community, including his/her own and other churches, the needs and concerns of persons affected by the criminal justice system and educate the community regarding its roles in reconciliation.

This includes the recruitment and training of chapel volunteers for prison work. This may be done through the following ways and means:

- (i) Through accepting invitations to address, present papers, lead seminars or act as a resource person to meetings in the community
- (ii) Through accepting invitations to deliver sermons or homilies to church congregations
- (iii) Through attending denominational retreats, workshops, conferences, conventions, presbytery, deanery, camp or synod meetings
- (iv) Through seeking and selecting desirable volunteers from churches to be involved in chapel activities
- (v) Through training and sustaining chapel volunteers
- (vi) Through supporting ex-inmates and their families in community integration

### 5.(b)(vii) Integration of Chaplaincy

The chaplain shall integrate chaplaincy services and spiritual awareness into the total life of the institution by regular involvement with all other staff and by attending such meetings as may be desirable in line with his/her role.

The chaplain can integrate chaplaincy services in the following ways:

- (i) Through participating in the case management process, particularly in relation to inmates who are closely monitored
- (ii) Through maintaining the integrity of ministry and priesthood
- (iii) Through developing a theological understanding of existence and experiences as characterized by institutional life
- (iv) Through developing a system of values affirming human worth and dignity by participation in institutional life
- (v) Through administering an institutional department
- (vi) Through making appropriate representations as a resource person at institutional board meetings
- (vii) Through developing a working relationship with staff where activities overlap with chaplaincy services
- (viii) Through involvement in crisis situations especially where a particular understanding or relationship has been developed

## **6. Community Volunteer Involvement**

### ***6.(a) Policy Objective***

To ensure that volunteers form an integral part of the institution's self help programs and program delivery.

To develop and maintain ties between offenders, community and the service by encouraging citizen participation.

### ***6.(b) Involvement of Volunteers***

Involvement of community organisation volunteers and outside professionals in program development and delivery shall be actively encouraged.

Community groups and individuals representative of various ethnic and socioeconomic origins shall be encouraged to volunteer their services.

Community groups and individuals shall be encouraged to assist offenders in integrating into the community when released from prison.

Community groups and individuals may provide assistance in establishing beneficial relationships between the service and the community by keeping the community informed about corrections.

### ***6.(c) Proposals for Volunteer Groups***

Proposals for establishing and utilising volunteer services shall contain:

- (i) Description of proposed service
- (ii) Objectives of proposed service

- (iii) Target population
- (iv) Institutional program affiliation (if any)
- (v) Manner in which proposed service is to be evaluated
- (vi) Manner in which the volunteer is to be provided with appropriate training/orientation
- (vii) Frequency of events
- (viii) Qualifications of volunteer (in case of volunteers providing a professional service, suitable proof of professional standing must be included)
- (ix) A list of material or equipment required by the volunteers that is supplied by the institution
- (x) A list of items, articles, books, which will be brought into the institution by the volunteers
- (xi) Any other relevant information

Each prospective volunteer must complete a “Volunteer Application” which is submitted with the proposal, and must await clearance.

Each volunteer shall be in only one group and shall declare the specific group on the application.

#### ***6.(d) Contact Person***

All volunteer groups shall have an institutional contact person who will be responsible for:

- (i) Receiving volunteer proposals
- (ii) Providing supervision
- (iii) Assisting in providing orientation training prior to allowing individuals or groups into the institution on a continuous basis
- (iv) Liaison between community group and institution department

Community groups or individuals who do not have an assigned liaison/contact person shall be referred to leisure activities staff.

#### ***6.(e) Security Screening***

All volunteers must undergo a security screening prior to entry into the institution.

1. Volunteers on individual inmate visit and correspondence lists shall not be allowed to visit as a volunteer.
2. Volunteers cannot work at more than one institution.

Volunteers who are affiliated with the chapel shall send their application to the chaplains, who shall forward them to the preventive security section for processing.

All self-help group volunteers shall submit their applications to the unit manager of leisure activities.

### **6.(f) Orientation**

All volunteers must complete an orientation program comprising of:

- (i) Volunteer handbook
- (ii) Tour of the institution
- (iii) Security concerns and volunteers responsibilities
- (iv) Communication network for volunteers
- (v) Procedure at principle entrance
- (vi) Conduct while in the institution

Liaison/contact officer must also conduct an interview aimed at determining the suitability of each volunteer.

All volunteers must sign a document “Volunteer Participation Agreement” that:

- (a) absolves the service of any responsibility for harm, except if it is a direct result of negligence on the part of the service, and
- (b) acknowledges that they have received an orientation session and handouts.

## **E. SENTENCE ADMINISTRATION OF YOUNG OFFENDERS**

### **1. Case Manager**

Every youth, upon admission to a custody centre for a period in excess of thirty days, shall have a case manager assigned to him or her within three days.

#### *Discussion:*

In order to ensure that the individual needs of every youth are met, a case manager shall be assigned and be responsible for ensuring that the youth’s progress through the program is as positive as possible.

The institutional case management coordinator shall assume responsibility for the case management of all youths committed for custody for a period of less than thirty days.

The case manager, in consultation with any youth under his or her supervision as well as the responsible field probation officer, shall develop within thirty days of placement a written individualised, time-limited and goal-oriented plan of care that shall include:

- (i) A statement of goals to be achieved or worked towards for the youth and his/her parent(s), family or guardian(s) during the youth's stay in the centre
- (ii) Specification of the daily activities, including education and recreation, to be pursued by the staff and the youth in order to attempt to achieve the stated goals
- (iii) Specification of consistent and suitable staff responses to the youth
- (iv) Specification of any specialised services that will be provided directly or arranged for, and measures for ensuring their proper integration with the youth's ongoing program activities
- (v) Specification of time-limited targets in relation to overall goals and specific objectives
- (vi) Goals and anticipated plans for discharge and aftercare

## **2. Staff Involvement**

Case management requires the combined effort of all the correctional staff in integrating the inmate in the range of programs, activities and opportunities available to ensure that he or she makes the best use of his or her sentence.

### ***2.(a) Field Probation Officer***

The field probation officer associated with the youth prior to commitment to the program and the case management coordinator associated with the youth in containment, shall be mutually responsible for pre-release and release planning for the youth

#### *Discussion:*

Any program of detention, containment or treatment for a youth must be seen as a part of a continuum which is essentially community-centred. Therefore, the field probation officer should have the major responsibility for overall case management and planning, which includes pre-placement and release planning.

The field probation officer should participate in planning a supervision program with the youth, youth correctional program staff, parents and/or guardians, and other important persons in the youth's life.

#### **2.(a)(i) Contact**

The field probation officer shall ensure that at least monthly contact occurs between him/herself and:

- (a) the youth in question,
- (b) the case management coordinator concerned with the ongoing conduct and planning of the case, and
- (c) the parent(s)/guardian(s) responsible for the care of the youth in question.

### **3. Educational and Recreational Programs**

#### ***3.(a) Educational Programs***

Every youth shall have the opportunity to participate in an educational program approved by the ministry of education.

*Discussion:*

Youths under the age of 15 must, by law, attend school. Youths 15 years and over should be encouraged to attend school in order to upgrade their formal academic training.

#### ***3.(b) Equality of Access***

Male and female youths in youth programs shall have equal access to all program services and activities.

*Discussion:*

Traditionally, male youths far outnumber female youths in youth programs. Nonetheless, male and female youths should be encouraged to participate equally in all program services and activities provided by the youth program. The small numbers of females present must not preclude facilities and programs being offered to them.

#### ***3.(c) Leisure and Recreational Activities***

The youth program shall make provisions for youths to have periods of free, unplanned time during the course of the day's activities.

The youth program shall ensure that a range of indoor and outdoor recreational opportunities are provided, based on both the individual interests and needs of the residents and the composition of the group.

*Discussion:*

The youth program should provide youths with a range and level of leisure time activities commensurate and comparable to community standards. Youths need an outlet for exercise of physical energy and emotional expression. Both planned and unplanned play provides opportunities for joy, fun, exuberance and creativity in a relaxed and pleasurable manner.

Youth programs shall provide a minimum of two hours opportunity for planned recreation time each day.

*Discussion:*

This is in addition to unplanned leisure time. A range of types of activities providing opportunities suitable to the needs, interests and abilities of the residents should be provided.

Youth programs may be co-educational.

The standard requires that the planning, design and implementation of any youth program shall allow for co-educational facilities, services and programming. Involvement and contact between the sexes shall conform to normal community standards for the age group in question. The standards and practices of local school boards is probably a good indicator of appropriate expectations.

#### **4. Visits**

Written visiting rules for the program stating hours and days of visits shall be posted in central locations, provided to each youth upon admission, and to the youth's family and/or guardian(s) upon his/her admission and shall be available to any individual upon request.

*Discussion:*

The visiting rules for any program should encourage optimal contact between the resident and his/her family, guardian(s), members of the community, and others involved in his/her case.

Under certain circumstances, a young offender may be transferred or sentenced to adult custody.

#### **5. Rehabilitative Programs**

Where a youth is sentenced to a containment program, he/she shall have the right to apply, at any time, for temporary absence to participate in an educational or other program or medical treatment, whether held inside or outside the youth containment centre.

*Discussion:*

The right to apply does not guarantee the granting of the release. However, successful reintegration into the community almost demands that contained youths be exposed to the resources they will utilise in the community at some point prior to their final discharge from the containment program.

## 6. Sentence Reviews

Youths sentenced to containment shall undergo an administrative review at the completion of one-third of the custody sentence, with a view towards making an application to the youth court for early release, or transfer to open custody, as appropriate.

### *Discussion:*

Youths committed to secure custody would normally be transferred to open custody before being granted an early release by the court. A review of the secure custody sentence, with a view to making an application to the court for a transfer to open custody, must be made after one-third of the secure custody sentence is served. If the youth is not transferred after one-third, then a further review must occur after the completion of two-thirds of the secure custody sentence, or earlier if appropriate.

Youths in open custody must undergo a review with a view to making an application to the court for early release, after completion of one-third of the open custody sentence. Should an application be considered inappropriate at that time, or if the court rejects the early release application, a further review must occur after completion of two-thirds of the youth's open custody sentence.

## 7. Juveniles Serving Sentences in Adult Correctional Facilities

### *7.(a) Admission*

When a young offender is admitted to an adult correctional centre, the centre director shall ensure that the admission of the young offender is accompanied with an appropriate court order.

### *7.(b) Youth Information*

Sentence administration staff are legally entitled to refer to a young offender's record information to assist in the management of the case, and should obtain this information particularly in cases where the current offence or previous history involves violence.

This information may include:

- (a) case file,
- (b) youth pre-disposition reports,
- (c) youth psychological/psychiatric assessments, or
- (d) other relevant information available from youth custody centres or the field probation officer.

Note: Young offender records relating to previous summary convictions cannot be disclosed if five years has passed since the youth disposition. In the case of previous indictable offences,

the records may not be used if there have been five crime-free (indictable) years since the expiration of the youth disposition.

Sentences being served by a youth in an adult facility are subject to remission and parole and should be administered like any other adult sentence.

Typically, cases transferred will involve youths who are violent and/or persistent offenders. This must be taken into account in sentence administration.

### ***7.(c) Authority to Transfer 18 Year Olds to an Adult Facility***

The director of the youth custody centre may request that a young person serving a youth disposition who attains the age of 18 be transferred to an adult prison.

Transfer applications can arise in two separate sets of circumstances:

- (i) Where a young person is committed to custody and attains the age of 18 years
- (ii) Where the young person is committed to custody and is concurrently serving a sentence of imprisonment imposed in ordinary court

In either event, an authorisation for the transfer signed by a director of a youth custody centre must accompany the young person on admission to the adult correctional centre.

Since these orders result in a youth disposition being served in an adult correctional centre, the young person is not eligible to earn remission or apply for parole with respect to the youth custody disposition.

Under court review provisions, the young person may make an application to court at any time and is also required to appear before the youth court annually.

The director of the youth custody centre or the local director of the community probation office, depending on the circumstances, shall consult with the youth and the local adult sentence management unit to develop a joint plan with respect to the youth's proposed classification to an adult correctional centre. In preparing the plan, the normal adult classification procedures shall apply, having regard for the special needs of the young person.

This joint plan shall be prepared and forwarded to the regional director for approval. This approval can be provided either orally or in writing, as the circumstances may require.

Following placement in an adult prison, the adult sentence management unit must seek approval of the regional director before re-classifying the youth to a lower level of security.

### ***7.(d) Case Management Responsibility***

When a young offender is transferred to an adult prison, the youth's probation officer retains the young offender as part of his or her active caseload and is to liaise closely with the correctional centre to provide advice on case planning and, in particular, court review applications.

### ***7.(e) Return to Youth Custody***

In rare cases, the youth may be returned to the youth custody system when an application has been authorised and put into effect. This can only be effected by way of an application for court review which shall be made by the field probation officer with case management responsibility. Before making such an application, there should first be a consultation with local counsel and the program analyst, youth services, regarding the procedure.

### ***7.(f) Transfer of Jurisdiction***

When a young offender is subject to a custodial disposition and receives an additional sentence in adult court, it is possible to apply to the adult court to "convert" the "remaining portion" of the youth disposition to an adult sentence, unless to do so would bring the administration of justice into disrepute. This "converted" youth disposition may be ordered by the court to be served concurrently with or consecutive to the adult sentence.

When a youth disposition is converted to an adult sentence and the remaining portion of that disposition is two years or more in length, the inmate is subject to transfer to a penitentiary. Similarly, if the converted remaining portion of the youth disposition is imposed consecutive to the adult sentence and these sentences total two years or more, the result would be a penitentiary placement.

The provincial director has discretionary powers to determine where a youth under a concurrent youth custody disposition and an adult court sentence shall serve the concurrent portions of the sentence. The disposition and sentence, and any portions thereof, may be served in a youth custody centre, a provincial correctional facility for adults, or, where the unexpired portion of the sentence is two years or more, in a penitentiary.

#### *Examples:*

1. The youth is sentenced to one year in the youth court and a concurrent sentence of two years less one day in the adult court- the sentence would be served in a prison for adults.
2. The youth is sentenced to one year in the youth court and a concurrent sentence of three years in the adult court- the sentence would be served in a penitentiary if the unexpired (remaining) portion of the adult sentence is two years or more at the time of the proposed transfer.
3. The youth is sentenced to one year in the youth court and a concurrent sentence of two years in the adult court, but a week has passed since these youth and adult sentences were

imposed. In these circumstances, the youth may only be placed in an adult prison because the unexpired portion of the adult sentence is now less than two years.

4. The youth has been sentenced to three years in the youth court and a concurrent sentence of eighteen months in adult court. In these circumstances, the placement can only be to an adult prison because, although the youth sentence is three years, the adult sentence is less than two years. In cases such as this, where the adult sentence will expire before the youth sentence, crown counsel should be encouraged to “convert” the youth sentence to an adult sentence by way of an application, or an application should be made to have the youth sentence served in an adult prison.

### **7.(g) General Policy**

When a youth is serving a youth custody sentence and is sentenced to a concurrent period of adult imprisonment, or when the youth is serving an adult sentence and receives a subsequent youth custody sentence, the sentence shall be served in an adult prison, except where:

- (a) the adult custody sentence will expire before the youth sentence does; or
- (b) it is clearly in the better interests of the youth, and not contrary to the public interest, for the youth to be retained in a youth custody centre.

### **7.(g)(i) Exceptions**

When an exception to the general policy of a youth serving a concurrent sentence in a adult centre arises, the director of the youth custody centre, director of sentence management unit of the prison, and the local director of the supervising probation office should attempt to arrive at a decision by mutual agreement.

Where a decision cannot be reached by mutual agreement, the matter shall be referred to the regional director of the region of the youth custody centre from which the youth originated, for decision.

## **8. Review of Progress File**

A review of every progress file shall take place as follows:

- (i) Inmate’s case manager- minimum monthly
- (ii) Officer in charge of the unit- minimum monthly (keeping notes for discussion with staff, as appropriate)
- (iii) Warden and deputy wardens- to review samples regularly
- (iv) Classification- on scheduled review dates, when presented for reclassification consideration, and by regular spot checks

## III INMATE RIGHTS AND TREATMENT OF PRISONERS

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## III INMATE RIGHTS AND TREATMENT OF PRISONERS

### PART ONE: UN GUIDELINES

#### A. GENERAL RIGHTS OF PRISONERS

##### 1. Right to Humane Treatment

*Universal Declaration of Human Rights*<sup>1</sup>

*Article 4*

No one shall be held in slavery or servitude. Slavery and the slave trade shall be prohibited in all their forms.

*International Covenant on Civil and Political Rights*<sup>2</sup>

*Article 10*

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

*Basic Principles for the Treatment of Prisoners*<sup>3</sup>

*Principle 1*

All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>4</sup>

*Principle 1*

All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.

*Code of Conduct for Law Enforcement Officials*

*Article 2*

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<sup>1</sup> General Assembly Resolution 217 (III) of 10 December 1948.

<sup>2</sup> General Assembly Resolution 2200 A (XXI) of 16 December 1966.

<sup>3</sup> General Assembly Resolution 45/111 of 14 December 1990.

<sup>4</sup> General Assembly Resolution 43/173 of 9 December 1988.

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

*Commentary*

(a) The human rights in question are identified and protected by national and international law. Among the relevant international instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the Standard Minimum Rules for the Treatment of Prisoners and the Vienna Convention on Consular Relations.

(b) National commentaries to this provision should indicate regional or national provisions identifying and protecting these rights.

## **2. Right to Equality/Freedom from Discrimination**

### *The Universal Declaration of Human Rights*<sup>5</sup>

#### *Article 1*

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

#### *Article 2*

Everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

### *Basic Principles for the Treatment of Prisoners*<sup>6</sup>

#### *Principle 2*

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<sup>5</sup> *Supra*, note 1

<sup>6</sup> *Supra*, note 3

There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

*Principle 3*

It is, however, desirable to respect the religious beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions so require.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>7</sup>

*Principle 5*

1. These principles shall be applied to all persons within the territory of a given state, without distinction of any kind, such as race, colour, sex, language, religion or religious belief, political or other opinion, national, ethnic or social origin, property, birth or other status.

2. Measures applied under the law and designed solely to protect the rights and special status of women (especially pregnant women and nursing mothers), children and juveniles, aged, sick or handicapped persons, shall not be deemed to be discriminatory. The need for, and the application of, such measures shall always be subject to review by a judicial or other authority.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>8</sup>

*Rule 6*

1. The following rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. On the other hand, it is necessary to respect the religious beliefs and moral precepts of the group to which a prisoner belongs.

**3. Use of Least Restrictive Measures**

*Basic Principles for the Treatment of Prisoners*<sup>9</sup>

*Principle 5*

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<sup>7</sup> *Supra*, note 4

<sup>8</sup> First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva 1955, approved by the Economic and Social Council Resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

<sup>9</sup> *Supra*, note 3

Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights. Where the state concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants, shall retain the human rights and fundamental freedoms of all prisoners.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>10</sup>

*Rule 57*

Imprisonment and other measures, which result in cutting off an offender from the outside world, are afflictive by the very fact of taking from the person the right of self-determination by depriving him/her of his/her liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation.

#### **4. Right to Life, Liberty, Security**

##### **4.(a) Inherent Right to Life**

*The Universal Declaration of Human Rights*<sup>11</sup>

*Article 3*

Everyone has the right to life, liberty and security of person.

*International Covenant on Civil and Political Rights*<sup>12</sup>

*Article 6*

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his/her life.

*Article 9*

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his/her liberty except on such grounds and in accordance with such procedures as are established by law.

*Article 11*

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<sup>10</sup> *Supra*, note 6

<sup>11</sup> *Supra*, note 1

<sup>12</sup> *Supra*, note 2

No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation.

#### **4.(b) Capital Punishment**

*International Covenant on Civil and Political Rights*<sup>13</sup>

##### *Article 6*

2. In countries that have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention for the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorise any state party to the present Covenant to derogate in any way from any obligation assumed under the provision of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any state party to the present Covenant.

*Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty*<sup>14</sup>

1. In countries that have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences.

2. Capital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the time of its commission. It shall be understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

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<sup>13</sup> *Supra*, note 2

<sup>14</sup> Economic and Social Council Resolution 1984/150 of 25 May 1984.

3. Persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane.

4. Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in Article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.

5. Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in Article 14 of the International Covenant on Civil and Political rights. Those safeguards shall include the right of anyone suspected of or charged with a crime for which capital punishment may be imposed, to adequate legal assistance at all stages of the proceedings.

6. Anyone sentenced to death shall have the right to seek pardon or commutation of sentence. Pardon or commutation of sentence may be granted in all cases of capital punishment.

7. Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction. Steps should be taken to ensure that such appeals become mandatory.

8. Capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to a pardon or commutation of the sentence.

9. Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering.

## **5. Protection Against Torture/Mistreatment**

### ***5.(a) Definition***

*Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*<sup>15</sup>

#### *Article 1*

1. For the purpose of this Declaration, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official or other person for such purposes as obtaining from him/her or a third person information or confession, punishing him/her for an act he/she has committed or is suspected of having committed, or intimidating him/her or other persons. It does not

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<sup>15</sup> General Assembly Resolution 3452 (XXX) of 9 December 1975.

include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.

2. Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment.

*Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*<sup>16</sup>

*Article 1*

1. For the purposes of this Convention, the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her, or a third person, information or a confession, punishing him/her for an act he/she or a third person has committed or is suspected of having committed, or intimidating or coercing him/her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation that does or may contain provisions of wider application.

***5.(b) Right to Protection Against Torture***

*Universal Declaration of Human Rights*<sup>17</sup>

*Article 5*

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

*International Covenant on Civil and Political Rights*<sup>18</sup>

*Article 7*

No one shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his/her free consent to medical or scientific experimentation.

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<sup>16</sup> Adopted and opened for signature, ratification and accession by General Assembly Resolution 39146.

<sup>17</sup> *Supra*, note 1

<sup>18</sup> Adopted and opened for signature, ratification and accession by General Assembly Resolution 2200 A (XXI) of 16 December 1966, Entry into Force: 23 March 1976, in accordance with Article 49.

*Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*<sup>19</sup>

*Article 2*

Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>20</sup>

*Principle 6*

No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, nor any circumstance which may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>21</sup>

*Rule 87*

In the performance of their duties, personnel of detention facilities should respect and protect the human dignity and fundamental human rights of all juveniles, in particular as follows:

- (i) No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever.

*Code of Conduct for Law Enforcement Officials*<sup>22</sup>

*Article 5*

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or an emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

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<sup>19</sup> Supra, note 8

<sup>20</sup> Supra, note 4

<sup>21</sup> General Assembly Resolution 451113 of December 1990.

<sup>22</sup> Supra, note 5

*Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detained Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*<sup>23</sup>

*Principle 2*

It is a gross contravention of medical ethics, as well as an offence under applicable international instruments, for health personnel, particularly physicians, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment.

**5.(c) Protection Against Using Statements Procured under Torture**

*Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*

*Article 12*

Any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence against the person concerned or against any other person in any proceedings.

*Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment for Punishment*<sup>24</sup>

*Article 15*

Each state party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

**5.(d) State Responsibility**

*Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*<sup>25</sup>

*Article 3*

No state may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances such as a state of war, internal political

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<sup>23</sup> General Assembly Resolution 371194 of 18 December 1982.

<sup>24</sup> *Supra*, note 9

<sup>25</sup> *Supra*, note 8

instability or any other public emergency, may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

*Article 4*

Each state shall, in accordance with the provisions of this Declaration, take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment from being practiced within its jurisdiction.

*Article 6*

Each state shall keep, under systematic review, interrogation methods and practices as well as arrangements for the custody and treatment of persons deprived of their liberty in its territory, with a view to preventing any cases of torture or other cruel, inhuman or degrading treatment or punishment.

*Article 7*

Each state shall ensure that all acts of torture as defined in Article 1 are offences under its criminal law. The same shall apply in regard to acts which constitute participation in, complicity in, incitement to or an attempt to commit torture.

*Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment*<sup>26</sup>

*Article 2*

1. Each state party shall take elective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

*Article 3*

1. No state party shall expel, return (“refouler”) or extradite a person to another state where there are substantial grounds for believing that he/she would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable,

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<sup>26</sup> *Supra*, note 9

the existence in the state concerned of a consistent pattern of gross, flagrant or mass violation of human rights.

#### *Article 4*

1. Each state party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to act by any person which constitutes complicity or participation in torture.

2. Each state party shall make these offences punishable by appropriate penalties which take into account their grave nature.

#### *Article 6*

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any state party in whose territory a person alleged to have committed any offence referred to in Article 4 is present, shall take him/her into custody or take other legal measures to ensure his/her presence. The custody and other legal measures shall be provided in the law of that state but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such state shall immediately make a preliminary inquiry into the facts.

3. Any person in custody pursuant to Paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the state of which he/she is a national, or, if he/she is a stateless person, with the representative of the state where he/she usually resides.

4. When a state, pursuant to this Article, has taken a person into custody, it shall immediately notify the states referred to in Article 5, Paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his/her detention. The state which makes the preliminary inquiry contemplated in Paragraph 2 of this article shall promptly report its findings to the said states and shall indicate whether it intends to exercise jurisdiction.

#### *Article 7*

1. The state party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in Article 4 is found shall, in the cases contemplated in Article 5 if it does not extradite him/her, submit the case to its competent authorities for the purpose of prosecution.

2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that state. In the cases referred to in Article 5, Paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in Article 5, Paragraph 1.

3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in Article 4, shall be guaranteed fair treatment at all stages of the proceedings.

#### *Article 10*

1. Each state party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention, or imprisonment.

2. Each state party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

#### *Article 11*

Each state party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

### ***5.(e) Right to Make Complaints***

#### *International Covenant on Civil and Political Rights*<sup>27</sup>

#### *Article 2*

3. Each state party to the present Covenant undertakes:

- (a) to ensure that any person whose rights or freedoms as herein recognised are violated shall have an elective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (b) to ensure that any person claiming such a remedy shall have his/her right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the state, and to develop the possibilities of judicial remedy;
- (c) to ensure that the competent authorities shall enforce such remedies when granted.

#### *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>28</sup>

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<sup>27</sup> *Supra*, note 2

<sup>28</sup> *Supra*, note 4

*Principle 33*

1. A detained or imprisoned person or his/her counsel shall have the right to make a request or complaint regarding his/her treatment, particularly torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.
2. In those cases where neither the detained or imprisoned person nor his/her counsel has the possibility to exercise his/her rights under Paragraph 1 of the present Principle, a member of the family of the detained or imprisoned person or any other person who has knowledge of the case may exercise such rights.
3. Confidentiality concerning the request or complaint shall be maintained if so requested by the complainant.
4. Every request or complaint shall be promptly dealt with and replied to without undue delay. If the request or complaint is rejected or, in case of inordinate delay, the complainant shall be entitled to bring it before a judicial or other authority. Neither the detained or imprisoned person nor any complainant under Paragraph 1 of the present Principle shall suffer prejudice for making a request or complaint.

*Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*<sup>29</sup>*Article 8*

Any person who alleges that he/she has been subjected to torture or other cruel, inhuman or degrading treatment or punishment by or at the instigation of a public official shall have the right to complain to, and to have his/her case impartially examined by, the competent authorities of the state concerned.

*Article 9*

Wherever there is reasonable ground to believe that an act of torture as defined in Article 1 has been committed, the competent authorities of the state concerned shall promptly proceed to an impartial investigation even if there has been no formal complaint.

*Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*<sup>30</sup>*Article 13*

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<sup>29</sup> *Supra*, note 8

<sup>30</sup> *Supra*, note 9

Each state party shall ensure that any individual who alleges he/she has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his/her case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill treatment or intimidation as a consequence of his/her complaint or any evidence given.

#### **5.(f) Right to Redress**

*Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*<sup>31</sup>

##### *Article 11*

Where it is proved that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed by or at the instigation of a public official, the victim shall be afforded redress and compensation in accordance with national law.

*Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*<sup>32</sup>

##### *Article 14*

1. Each state party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for a rehabilitation as complete as possible. In the event of the death of the victim as a result of an act of torture, his/her dependants shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

### **6. Rights Governing Use of Force, Firearms and Physical Restraint**

see IV SECURITY

### **7. Limitations on Disciplinary Measures**

see VI DISCIPLINE

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<sup>31</sup> *Supra*, note 8

<sup>32</sup> *Supra*, note 9

## B. RIGHTS BEFORE THE LAW

### 1. General

*The Universal Declaration of Human Rights*<sup>33</sup>

*Article 6*

Everyone has the right to recognition everywhere as a person before the law.

*Article 7*

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

*International Covenant on Civil and Political Rights*<sup>34</sup>

*Article 16*

Everyone shall have the right to recognition everywhere as a person before the law.

*Article 26*

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and shall guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>35</sup>

*Principle 2*

Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorised for that purpose.

*Principle 3*

There shall be no restriction upon or derogation from any of the human rights of persons under any form of detention or imprisonment recognised or existing in any state pursuant

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<sup>33</sup> *Supra*, note 1

<sup>34</sup> *Supra*, note 2

<sup>35</sup> *Supra*, note 4

to law, conventions, regulations or custom of the pretext that this Body of Principles does not recognize such rights or that it recognizes them to a lesser extent.

*Principle 4*

Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority.

*Principle 9*

The authorities who arrest a person, keep him/her under detention or investigate the case shall exercise only the powers granted to them under the law. The exercise of these powers shall be subject to recourse to a judicial or other authority.

*Principle 36*

2. The arrest or detention of such a person pending investigation and trial shall be carried out only for the purposes of the administration of justice on grounds and under conditions and procedures specified by law. The imposition of restrictions upon a person which are not strictly required for the purpose of the detention or to prevent hindrance to the process of investigation or the administration of justice, or for the maintenance of security and good order in the place of detention shall be forbidden.

*Declaration on the Protection of All Persons from Enforced Disappearance*<sup>36</sup>

*Article 10*

1. Any person deprived of liberty shall be held in an officially recognised place of detention and in conformity with national law and be brought before a judicial authority promptly after detention.

**2. Rights upon Arrest**

*The Universal Declaration of Human Rights*<sup>37</sup>

*Article 9*

No one shall be subjected to arbitrary arrest, detention, or exile.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>38</sup>

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<sup>36</sup> General Assembly Resolution 4711/33 of 18 December 1992.

<sup>37</sup> *Supra*, note 1

<sup>38</sup> *Supra*, note 4

*Principle 10*

Anyone who is arrested shall be informed at the time of his/her arrest of the reason for his/her arrest and shall be promptly informed of any charges against him/her.

*Principle 12*

1. There shall be duly recorded:

- (i) The reasons for the arrest
- (ii) The time of the arrest and the taking of the arrested person to a place of custody as well as that of his/her first appearance before a judicial or other authority
- (iii) The identity of the law enforcement officials concerned
- (iv) Precise information concerning the place of custody

2. Such records shall be communicated to the detained person, or his/her counsel, if any, in the forms prescribed by law.

*Principle 13*

Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his/her arrest, detention, or imprisonment, respectively with the information on and an explanation of his/her rights and how to avail him/herself of such rights.

*Principle 14*

A person who does not adequately understand or speak the language used by the authorities responsible for his/her arrest, detention or imprisonment is entitled to receive promptly in a language which he/she understands the information referred to in Principle 10, Principle 11, Paragraph 2, Principle 12, Paragraph 1, and Principle 13. He/she is entitled to have the assistance, free of charge, if necessary, of an interpreter in connection with legal proceedings subsequent to his/her arrest.

**3. Interrogation**

*International Covenant on Civil and Political Rights*<sup>39</sup>

*Article 9*

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for the arrest and shall be promptly informed of any charges against him/her.

*Article 14*

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<sup>39</sup> *Supra*, note 2

3. In the determination of any criminal charge against him/her, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) to be informed promptly and in detail in a language which he/she understands, of the nature and cause of the charge against him/her.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>40</sup>

*Principle 21*

1. It shall be prohibited to take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him/her to confess, to incriminate him/herself otherwise or to testify against any other person.

2. No detained person while being interrogated, shall be subject to violence, threats or methods of interrogation which impair his/her capacity of decision or judgment.

*Principle 23*

1. The duration of any interrogation of a detained or imprisoned person and of the intervals between interrogations as well as the identity of the officials who conducted the interrogations and other persons present shall be recorded and certified in such form as may be prescribed by law.

2. A detained or imprisoned person, or his/her counsel when provided by law, shall have access to the information described in Paragraph 1 of the present Principle.

#### **4. Right to Contact with the Outside World**

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>41</sup>

*Principle 15*

Notwithstanding the exceptions contained in Principle 16, Paragraph 4, and Principle 18, Paragraph 3, communication of the detained or imprisoned person with the outside world, and in particular his/her family or counsel, shall not be denied for more than a matter of days.

*Principle 16*

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<sup>40</sup> *Supra*, note 4

<sup>41</sup> *Supra*, note 4

1. Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his/her family or other appropriate persons of his/her choice of wont, detention or imprisonment or of the transfer and of the place where he/she is kept in custody.
2. If a detained or imprisoned person is a foreigner, he/she shall also be promptly informed of his/her right to communicate by appropriate means with a consular post or the diplomatic mission of the state of which he/she is a national, or is otherwise entitled to receive such communication in accordance with international law or with the representative of the competent international organisation, if he/she is a refugee or is otherwise under the protection of an intergovernmental organisation.
3. If a detained or imprisoned person is a juvenile or is incapable of understanding his/her entitlement, the competent authority shall on its own initiative undertake the notification referred to in the present Principle. Special attention shall be given to notifying parents or guardians.
4. Any notification referred to in the present Principle shall be made or permitted to be made without delay. The competent authority may however delay a notification for a reasonable period where exceptional needs of the investigation so require.

## 5. Right to Legal Consultation and Recourse

### *International Covenant on Civil and Political Rights*<sup>42</sup>

#### *Article 14*

3. In the determination of any criminal charge against the accused, everyone shall be entitled to the following minimum guarantees, in full equality:

- (b) to have adequate time and facilities for the preparation of his/her defence and to communicate with counsel of his/her own choosing.

### *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>43</sup>

#### *Principle 17*

1. A detained person shall be entitled to have the assistance of a legal counsel. He/she shall be informed of his/her right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.

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<sup>42</sup> *Supra*, note 2

<sup>43</sup> *Supra*, note 4

2. If a detained person does not have a legal counsel of his/her own choice, he/she shall be entitled to have a legal counsel assigned to him/her by a judicial or other authority in all cases where the interests of justice so require and without payment by him/her if he/she does not have sufficient means to pay.

*Principle 18*

1. A detained or imprisoned person shall be entitled to communicate and consult with his/her legal counsel.

2. A detained or imprisoned person shall be allowed adequate time and facilities for consultation with his/her legal counsel.

3. The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his/her legal counsel may not be suspended or restricted save in exceptional circumstances. These circumstances shall be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order.

4. Interviews between a detained or imprisoned person and his/her legal counsel may be within sight, but not within hearing of a law enforcement official.

5. Communications between a detained or imprisoned person and his/her legal counsel mentioned in the present Principle shall be inadmissible as evidence against the detained or imprisoned person unless they are connected with a continuance or contemplated.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>44</sup>

*Principle 32*

1. A detained person or his/her counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his/her detention in order to obtain his/her release without delay, if it is unlawful.

2. All proceedings referred to in Paragraph 1 of the present Principle shall be simple and expeditious and at no cost for detained persons without adequate means. The detaining authority shall produce without unreasonable delay the detained person before the reviewing authority.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>45</sup>

*Rule 93*

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<sup>44</sup> *Supra*, note

<sup>45</sup> *Supra*, note 6

For the purposes of his/her defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his/her legal adviser with a view to his/her defence and to prepare and hand to him/her confidential instructions. For these purposes, he/she shall, if he/she so desires, be supplied with writing material. Interviews between the prisoner and his/her legal adviser may be within sight but not within the hearing of a police or institutional official.

## 6. Right to a Prompt and Fair Trial

*The Universal Declaration of Human Rights*<sup>46</sup>

### *Article 10*

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his/her rights and obligations and of any criminal charge against him/her.

### *Article 11*

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he/she has had all the guarantees necessary for his/her defence.

2. No one shall be held guilty of any penal offence on account of any act or omission that did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

*International Covenant on Civil and Political Rights*<sup>47</sup>

### *Article 9*

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power, and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.

4. Anyone who is deprived of his/her liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his/her detention and order his/her release if the detention is not lawful.

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<sup>46</sup> *Supra*, note 1

<sup>47</sup> *Supra*, note 2

*Article 14*

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him/her, or of his/her rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order or national security in a democratic society, when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice. However, any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.

3. In the determination of any criminal charge against the accused, everyone shall be entitled to the following minimum guarantees, in full equality:

(c) to be tried without delay;

(d) to be tried in his/her presence and to defend him/herself in person or through legal assistance of his/her own choosing; to be informed, if he/she does not have legal assistance, of this right, and to have legal assistance assigned to him/her, in any case where the interests of justice so requires, and without payment by him/her in any such case if he/she does not have sufficient means to pay for it;

(e) to examine, or have examined, the witnesses against him/her and to obtain the attendance and examination of witnesses on his/her behalf under the same conditions as witnesses against him;

(f) to have the free assistance of an interpreter if he/she cannot understand or speak the language used in court;

(g) not to be compelled to testify against him/herself or to confess guilt.

5. Everyone convicted of a crime shall have the right to his/her conviction and sentence being reviewed by a higher tribunal according to law.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>48</sup>

*Principle 11*

1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend him/herself or to be assisted by counsel as prescribed by law.

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<sup>48</sup> *Supra*, note 4

2. A detained person and his/her counsel, if any, shall receive prompt and full communication of any order of detention, together with the reasons therefor.

3. A judicial or other authority shall be empowered to review as appropriate the continuance of detention.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>49</sup>

*Principle 36*

1. A detained person suspected of or charged with a criminal offence shall be presumed innocent and shall be treated as such until proved guilty according to law in a public trial at which he/she has had all the guarantees necessary for his/her defence.

*Principle 37*

A person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his/her arrest. Such authority shall decide without delay upon the lawfulness and necessity of detention. No person may be kept under detention pending investigation or trial except upon the written order of such an authority. A detained person shall, when brought before such an authority, have the right to make a statement on the treatment received by him/her while in custody.

*Principle 38*

A person held on a criminal charge shall be entitled to trial within a reasonable time or to release pending trial.

*Principle 39*

Except in special cases provided for by law, a person detained on a criminal charge shall be entitled, unless a judicial or other authority decides otherwise in the interest of the administration of justice, to release pending trial subject to the conditions that may be imposed in accordance with the law. Such authority shall keep the necessity of detention under review.

*General Clause*

Nothing in this Body of Principles shall be construed as restricting or derogating from any right defined in the International Covenant on Civil and Political Rights.

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<sup>49</sup> *Supra*, note 4

## 7. Right to Compensation for Unlawful Detention

*International Covenant on Civil and Political Rights*<sup>50</sup>

### *Article 9*

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

### *Article 14*

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his/her conviction has been reversed or he/she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proven that the non-disclosure of the unknown fact in time is wholly or partly attributable to him/her.

## C. RIGHTS DURING TERM OF IMPRISONMENT

### 1. Duties of Authorities and State Officials

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>51</sup>

#### *Principle 7*

1. States should prohibit by law any act contrary to the rights and duties contained in these principles, make any such act subject to appropriate sanctions and conduct impartial investigations upon complaints.

2. Officials who have reason to believe that a violation of this Body of Principles has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial powers.

3. Any other person who has ground to believe that a violation of this Body of Principles has occurred or is about to occur shall have the right to report the matter to the superiors of the officials involved as well as to other appropriate authorities or organs vested with reviewing or remedial powers.

### 2. Right to Information

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<sup>50</sup> *Supra*, note 2

<sup>51</sup> *Supra*, note 4

*Universal Declaration of Human Rights*<sup>52</sup>*Article 19*

Everyone has the right to freedom of opinion and expression. This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>53</sup>*Rule 35*

1. Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his/her category, the disciplinary requirements of the institution, the authorised methods of seeking information and making complaints, and all such other matters as are necessary to enable him/her to understand both his/her rights and obligations and to adapt him/herself to the life of the institution.

2. If a prisoner is illiterate, the aforesaid information shall be conveyed to him/her orally.

**3. Right to Make Complaints***Standard Minimum Rules for the Treatment of Prisoners*<sup>54</sup>*Rule 36*

1. Every prisoner shall have the opportunity each weekday of making requests or complaints to the prison warden or the officer authorised to represent him/her.

2. It shall be possible to make requests or complaints to the inspector of prisons during his/her inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the prison warden or other members of the staff being present.

3. Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.

4. Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.

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<sup>52</sup> *Supra*, note 1

<sup>53</sup> *Supra*, note 6

<sup>54</sup> *Supra*, note 6

#### 4. Right to Independent Inspections

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>55</sup>

*Principle 29*

1. In order to supervise the strict observance of relevant laws and regulations, places of detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment.

2. A detained or imprisoned person shall have the right to communicate freely and in full confidentiality with the persons who visit the places of detention or imprisonment in accordance with Paragraph 1 of the present Principle, subject to reasonable conditions to ensure security and good order in such places.

*Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*<sup>56</sup>

*Principle 7*

Qualified inspectors, including medical personnel, or an equivalent independent authority, shall conduct inspections in places of custody on a regular basis, and be empowered to undertake unannounced inspections on their own initiative, with full guarantees of independence in the exercise of this function. The inspectors shall have unrestricted access to all persons in such places of custody, as well as to their records.

#### 5. Right to Compensation upon Violation of Rights

*The Universal Declaration of Human Rights*<sup>57</sup>

*Article 8*

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him/her by the constitution or by law.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>58</sup>

*Principle 35*

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<sup>55</sup> *Supra*, note 4

<sup>56</sup> Recommended by Economic and Security Council Resolution 1989/65 of 24 May 1989.

<sup>57</sup> *Supra*, note 1

<sup>58</sup> *Supra*, note 4

1. Damage incurred because of acts or omissions by a public official contrary to the rights contained in these principles shall be compensated according to the applicable rules or liability provided by domestic law.

## 6. Visitation and Correspondence

*International Covenant on Civil and Political Rights*<sup>59</sup>

### *Article 17*

1. No one shall be subjected to arbitrary or unlawful interference with his/her privacy, family, home or correspondence, nor to unlawful attacks on his/her honour and reputation.

### *Article 19*

2. Everyone shall have the right to freedom of expression. This right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the prisoner's choice.

3. The exercise of the rights provided for in Paragraph 2 of this Article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) for respect of the rights or reputation of others; and
- (b) for the protection of national security or of public order (*ordre public*), or of public health or morals.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>60</sup>

### *Principle 19*

A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his/her family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>61</sup>

### *Rule 37*

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<sup>59</sup> *Supra*, note 2

<sup>60</sup> *Supra*, note 4

<sup>61</sup> *Supra*, note 6

Prisoners shall be allowed under necessary supervision to communicate with their families and reputable friends at regular intervals, both by correspondence and by receiving visits.

*Rule 38*

1. Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the state to which they belong.

2. Prisoners who are nationals of states without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the state who takes charge of their interests or any national or international authority whose task it is to protect such persons.

*Rule 39*

Prisoners shall be kept informed regularly of the more important items of news by reading newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorised or controlled by the administration.

## **7. Right to Privacy and Confidentiality**

*The Universal Declaration of Human Rights*<sup>62</sup>

*Article 12*

No one shall be subjected to arbitrary interference with his/her privacy, family, home or correspondence, nor to attacks upon his/her honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

*Code of Conduct for Law Enforcement Officials*<sup>63</sup>

*Article 4*

Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

*Commentary:*

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<sup>62</sup> *Supra*, note 1

<sup>63</sup> *Supra*, note 5

By the nature of their duties, law enforcement officials obtain information which may relate to private lives or are potentially harmful to the interests, and especially the reputation of others. Great care should be exercised in safeguarding and using such information, which should be disclosed only in the performance of duty or to serve the needs of justice. Any disclosure of such information for other purposes is wholly improper.

## 8. Language Rights

*Standard Minimum Rules for the Treatment of Prisoners*<sup>64</sup>

### *Rule 51*

1. The prison warden, his/her deputy, and the majority of the other personnel of the institution shall be able to speak the language of the greatest number of prisoners, or a language understood by the greatest number of them.
2. Whenever necessary, the services of an interpreter shall be used.

## 9. Religious Rights

*International Covenant on Civil and Political Rights*<sup>65</sup>

### *Article 18*

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or adopt a religion or belief of his/her choice, and freedom, either individually or in community with others and in public or private, and to manifest religion or belief in worship, observance, practice and aching.
2. No one shall be subject to coercion which would impair the prisoner's freedom to have or to adopt a religion or belief of his/her choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others.
4. The states' parties to the present Covenant undertake to have respect of the liberty of parents and, where applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

### *Article 27*

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<sup>64</sup> *Supra*, note 6

<sup>65</sup> *Supra*, note 2

In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>66</sup>

*Rule 6*

1. The following rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. On the other hand, it is necessary to respect the religious beliefs and moral precepts of the group to which a prisoner belongs.

*Rule 41*

1. If the institution contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.

2. A qualified representative appointed or approved under Paragraph 1 shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his/her religion at proper times.

3. Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his/her attitude shall be fully respected.

*Rule 42*

So far as practicable, every prisoner shall be allowed to satisfy the needs of his/her religious life by attending the services provided in the institution and having in his/her possession the books of religious observance and instruction of his/her denomination.

**10. Education and Culture**

see II CASE MANAGEMENT

**11. Recreation**

see V HEALTH

**12. Accommodation**

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<sup>66</sup> *Supra*, note 6

*Standard Minimum Rules for the Treatment of Prisoners*<sup>67</sup>*Rule 9*

1. Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by him/herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

2. Where dormitories are used, prisoners carefully selected as being suitable to associate with one another in those conditions shall occupy them. There shall be regular supervision by night, in keeping with the nature of the institution.

*Rule 10*

All accommodation provided for the use of prisoners, and in particular all sleeping accommodations, shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating, and ventilation.

*Rule 11*

In all places where prisoners are required to live or work,

- (a) the windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation; and
- (b) artificial light shall be provided sufficient for the prisoner to read or work without injury to eyesight.

*Rule 12*

The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

*Rule 13*

Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in temperate climates.

*Rule 14*

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<sup>67</sup> *Supra*, note 6

All parts of an institution used by prisoners shall be properly maintained and kept scrupulously clean at all times.

### **13. Health, Hygiene, Clothing and Nutrition**

see V HEALTH

### **14. Protection Against and Prevention of Enforced Disappearance**

*Declaration on the Protection of All Persons from Enforced Disappearance*<sup>68</sup>

#### *Article 1*

1. Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purpose of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field.

2. Any act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life.

#### *Article 2*

1. No state shall practice, permit or tolerate enforced disappearances.

2. States shall act at the national and regional levels and in cooperation with the United Nations to contribute by all means to the prevention and eradication of enforced disappearances.

#### *Article 3*

Each state shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction.

#### *Article 4*

1. All acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness.

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<sup>68</sup> General Assembly Resolution 47/133 of 18 December 1992.

*Article 6*

1. No order or instruction of any public authority, civilian, military or other may be invoked to justify an enforced disappearance. Any person receiving such an order or instruction shall have the right and duty not to obey it.

*Article 7*

No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.

*Article 8*

1. No state shall expel, return (“refouler”) or extradite a person to another state where there are substantial grounds to believe that he/she would be in danger of an enforced disappearance.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the state concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

*Article 9*

1. The right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty, is required to prevent enforced disappearances under all circumstances, including those referred to in Article 7 above.

*Article 10*

2. Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.
3. An official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, each state shall take steps to maintain similar centralised registers. The information contained in these registers shall be made available to the persons mentioned in the preceding paragraph, to any judicial or other competent and independent national authority and to another competent authority entitled under the law of the state concerned or any international legal instrument to which a state concerned is a party, seeking to trace the whereabouts of a detained person.

## 15. Administrative Safeguards Against Enforced Disappearances

*Declaration on the Protection of All Persons from Enforced Disappearance*<sup>69</sup>

### *Article 12*

1. Each state shall establish rules under its national law indicating those officials authorised to order deprivation of liberty, establishing the conditions under which such orders may be given, and stipulating penalties for officials who, without legal justification, refuse to provide information on any detention.
2. Each state shall likewise ensure strict supervision, including a clear chain of command, of all law enforcement officials responsible for apprehensions, arrests, detentions, custody, transfers and imprisonment, and of other officials authorised by law to use force and firearms.

### *Article 13*

1. Each state shall ensure that any person having knowledge or legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent state authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the state shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.
2. Each state shall ensure that the competent authority shall have the necessary powers and resources to conduct the investigation effectively, including powers to compel attendance of witnesses and production of relevant documents and to make immediate on-site visits.
3. Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill treatment, intimidation or reprisal.
4. The findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation.
5. Steps shall be taken to ensure that any ill treatment, intimidation or reprisal, or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished.

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<sup>69</sup> *Supra*, note

6. An investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclear.

#### *Article 14*

Any person alleged to have perpetrated an act of enforced disappearance in a particular state shall, when the facts disclosed by an official investigation so warrant, be brought before the competent civil authorities of that state for the purpose of prosecution and trial unless he/she has been extradited to another state wishing to exercise jurisdiction in accordance with the relevant international agreements in force. All states should take any lawful and appropriate action available to them to bring to justice all persons presumed responsible for an act of enforced disappearance, who are found to be within their jurisdiction or under their control.

#### *Article 15*

The fact that there are grounds to believe that a person has participated in acts of an extremely serious nature such as those referred to in Article 4, Paragraph 1 above, regardless of the motives, shall be taken into account when the competent authorities of the state decide whether or not to grant asylum.

#### *Article 16*

1. Persons alleged to have committed any of the acts referred to in Article 4, Paragraph 1 above, shall be suspended from any official duties during the investigation referred to in Article 13 above.
2. They shall be tried only by the competent ordinary courts in each state, and not by any other special tribunal, in particular military courts.
3. No privileges, immunities or special exemptions shall be admitted in such trials, without prejudice to the provisions contained in the Vienna Convention on Diplomatic Relations.
4. The persons presumed responsible for such acts shall be guaranteed fair treatment and other relevant international agreements in force at all stages of the investigation and eventual prosecution at trial.

#### *Article 17*

1. Acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared, and these facts remain unclear.
2. When the remedies provided for in Article 2 of the International Covenant on Civil and Political Rights are no longer effective, the statute of limitations relating to acts of enforced disappearance shall be suspended until these remedies are re-established.

3. Statutes of limitations, where they exist, relating to acts of enforced disappearance shall be substantial and commensurate with the extreme seriousness of the offence.

#### *Article 18*

1. Persons who have or are alleged to have committed offences referred to in Article 4, Paragraph 1, above, shall not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings or sanction.

2. In the exercises of the right of pardon, the extreme seriousness of acts of enforced disappearance shall be taken into account.

#### *Article 19*

The victims of acts of enforced disappearance and their families shall obtain redress and shall have the right to adequate compensation, including the means for a rehabilitation as complete as possible. In the event of the death of the victim as a result of an act of enforced disappearance, his/her dependants shall also be entitled to compensation.

### **16. Protection Against Summary Executions**

#### ***16.(a) Prevention***

*Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*<sup>70</sup>

##### *Principle 1*

Governments shall prohibit by law all extra-legal, arbitrary and summary executions and shall ensure that any such executions are recognised as offences under their criminal laws, and are punishable by appropriate penalties that take into account the seriousness of such offences. Exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency, may not be invoked as a justification of such executions. Such executions shall not be carried out under any circumstances including, but not limited to, situations of internal armed conflict, excessive or illegal use of force by a public official or other person acting in an official capacity or by a person acting at the instigation, or with the consent or acquiescence of such person, and situations in which deaths occur in custody. This prohibition shall prevail over decrees issued by governmental authority.

##### *Principle 2*

In order to prevent extra-legal, arbitrary and summary executions, governments shall ensure strict control, including a clear chain of command over all officials responsible for

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<sup>70</sup> Recommended by Economic and Security Council Resolution 1989/65 of 24 May 1989.

apprehension, arrest, detention, custody and imprisonment, as well as those officials authorised by law to use force and firearms.

*Principle 3*

Governments shall prohibit orders from superior officers or public authorities authorising or inciting other persons to carry out any such extra-legal, arbitrary or summary executions. All persons shall have the right and the duty to defy such orders. Training of law enforcement officials shall emphasise the above provisions.

*Principle 6*

Governments shall ensure that persons deprived of their liberty are held in officially recognised places of custody, and that accurate information on their custody and whereabouts, including transfers, is made promptly available to their relatives and lawyer or other persons of confidence.

*Principle 7*

Qualified inspectors, including medical personnel, or an equivalent independent authority, shall conduct inspections in places of custody on a regular basis, and be empowered to undertake unannounced inspections on their own initiative, with full guarantees of independence in the exercise of this function. The inspectors shall have unrestricted access to all persons in such places of custody, as well as to all their records.

*Principle 8*

Governments shall make every effort to prevent extra-legal, arbitrary and summary executions through measures such as diplomatic intercession, improved access of complainants to intergovernmental and judicial bodies, and public denunciation. Intergovernmental mechanisms shall be used to investigate reports of any such executions and to take effective action against such practices. Governments, including those of countries where extra-legal, arbitrary and summary executions are reasonably suspected to occur, shall cooperate fully in international investigations on the subject.

**16.(b) Investigation**

*Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*<sup>71</sup>

*Principle 9*

There shall be a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by

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<sup>71</sup> *Supra*, note

relatives or other reliable reports suggest unnatural death in the above circumstances. Governments shall maintain investigative offices and procedures to undertake such inquiries. The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses. The investigation shall distinguish between natural death, accidental death, suicide and homicide.

#### *Principle 10*

The investigative authority shall have the power to obtain all the information necessary to the inquiry. Those persons conducting the investigation shall have at their disposal all the necessary budgetary and technical resources for effective investigation. They shall also have the authority to oblige officials allegedly involved in any such executions to appear and testify. The same shall apply to any witness. To this end, they shall be entitled to issue summonses to witnesses, including the officials allegedly involved, and to demand the production of evidence.

#### *Principle 11*

In cases in which the established investigative procedures are inadequate because of lack of expertise or impartiality, because of the importance of the matter, or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons, governments shall pursue investigations through an independent commission of inquiry or similar procedure. Members of such a commission shall be chosen for their recognised impartiality, competence and independence as individuals. In particular, they shall be independent of any institution, agency or person that may be the subject of the inquiry. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided for under these Principles.

#### *Principle 12*

The body of the deceased person shall not be disposed of until a physician, who shall, if possible, be an expert in forensic pathology, conducts an adequate autopsy. Those conducting the autopsy shall have the right of access to all investigative data, to the place where the body was discovered, and to the place where the death is thought to have occurred. If the body has been buried and it later appears that an investigation is required, the body shall be promptly and competently exhumed for an autopsy. If skeletal remains are discovered, they should be carefully exhumed and studied according to systematic anthropological techniques.

#### *Principle 13*

The body of the deceased shall be available to those conducting the autopsy for a sufficient amount of time to enable a thorough investigation to be carried out. The autopsy shall, at a minimum, attempt to establish the identity of the deceased, the cause and manner of death. The time and place of death shall also be determined to the extent

possible. Detailed colour photographs of the deceased shall be included in the autopsy report in order to document and support the findings of the investigation. The autopsy report must describe any and all injuries to the deceased including any evidence of torture.

*Principle 14*

In order to ensure objective results, those conducting the autopsy must be able to function impartially and independently of any potentially implicated persons, organisations or entities.

*Principle 15*

Complainants, witnesses, those conducting the investigation, and their families, shall be protected from violence, threats of violence or any other form of intimidation. Those potentially implicated in extra-legal, arbitrary or summary executions shall be removed from any position of control or power, whether direct or indirect over complainants, witnesses, and their families, as well as over those conducting investigations.

*Principle 16*

Families of the deceased, and their legal representatives shall be informed of and have access to any hearing as well as to all information relevant to the investigation. They shall also be entitled to present other evidence. The family of the deceased shall have the right to insist that a medical or other qualified representative be present at the autopsy. When the identity of a deceased person has been determined, a notification of death shall be posted and the family or relatives of the deceased shall be informed immediately. The body of the deceased shall be returned to them upon completion of the investigation.

*Principle 17*

A written report shall be made within a reasonable period of time on the methods and findings of such investigations. The report shall be made public immediately and shall include the scope of the inquiry, procedures and methods used to evaluate evidence, conclusions and recommendations based on findings of fact and on applicable law, the evidence upon which such findings were based, and a list of names of witnesses who testified, with the exception of those whose identities have been withheld for their own protection. The government shall, within a reasonable period of time, either reply to the report of the investigation or indicate the steps to be taken in response to it.

**16.(c) Legal Proceedings**

*Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*<sup>72</sup>

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<sup>72</sup> *Supra*, note

*Principle 18*

Governments shall ensure that persons identified by the investigations as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice. Governments shall either bring such persons to justice or cooperate to extradite such persons to other countries wishing to exercise jurisdiction. This principle shall apply irrespective of who and where the perpetrators or their victims are, their nationalities, or where the offence was committed.

*Principle 19*

Without prejudice to Principle 3 above, an order from a superior officer or a public authority may not be invoked as a justification for extra-legal, arbitrary or summary executions. Superiors, officers or other public officials may be held responsible for acts committed by officials under their authority if they had a reasonable opportunity to prevent such acts. In no circumstances, including a state of war, siege or other public emergency, shall blanket immunity from prosecution be granted to any person allegedly involved in extra-legal, arbitrary or summary executions.

*Principle 20*

The families and dependants of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time.

**17. Reintegration and Release***Declaration on the Protection of All Persons from Enforced Disappearance*<sup>73</sup>*Article 11*

All persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability to fully exercise their rights are assured.

**D. SPECIAL GROUP RIGHTS****1. Insane and Mentally Disordered Prisoners**

see II CASE MANAGEMENT and V HEALTH

**2. Detainees/Unconvicted Prisoners**

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<sup>73</sup> *Supra*, note 14

## **2.(a) General Rights**

### *Standard Minimum Rules for the Treatment of Prisoners*

#### *Rule 84*

1. Persons arrested or imprisoned by reason of a criminal charge against them, who are detained either in police custody or in prison custody (jail) but have not yet been tried and sentenced, will be referred to as “untried prisoners” hereinafter in these rules.
2. Unconvicted prisoners are presumed to be innocent and shall be treated as such.
3. Without prejudice to legal rules for the protection of individual liberty or prescribing the procedure to be observed in respect of untried prisoners, these prisoners shall benefit from a special regime which is described in the following rules in its essential requirements only.

#### *Rule 95*

Without prejudice to the provisions of Article 9 of the International Covenant on Civil and Political Rights, persons arrested or imprisoned without charge shall be accorded the same protection as that accorded under Part I and Part II, Section C. Relevant provisions of the benefit of this special group of persons in custody shall exist, provided that no measures shall be taken implying that re-education or rehabilitation is in any way appropriate to persons not convicted of any criminal offence.

## **2.(b) Separation from Convicted Prisoners**

### *International Covenant on Civil and Political Rights*<sup>74</sup>

#### *Article 10*

- 2.(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.
- 2.(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

### *Standard Minimum Rules for the Treatment of Prisoners*<sup>76</sup>

#### *Rule 85*

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<sup>74</sup> *Supra*, note 2

<sup>75</sup> *Supra*, note 2

<sup>76</sup> *Supra*, note 6

1. Untried prisoners shall be kept separate from convicted prisoners.
2. Untried youth prisoners shall be kept separate from adults and shall in principle be detained in separate institutions.

*Rule 86*

Untried prisoners shall sleep singly in separate rooms, with the reservation of different local customs in respect of the climate.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>77</sup>

*Principle 8*

Persons in detention shall be subject to treatment appropriate to their unconvicted status. Accordingly, they shall, wherever possible, be kept separate from imprisoned persons.

**2.(c) Special Provisions**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>78</sup>

*Rule 87*

Within the limits compatible with the good order of the institution, untried prisoners may, if they so desire, have their food procured at their own expense from the outside, either through the administration or through their family and friends. Otherwise, the administration shall provide their food.

*Rule 88*

1. An untried prisoner shall be allowed to wear his/her own clothing if it is clean and suitable.
2. If he/she wears prison dress, it shall be different from that supplied to convicted prisoners.

*Rule 89*

An untried prisoner shall always be offered the opportunity to work, but shall not be required to work. If he/she chooses to work, he/she shall be paid for it.

*Rule 90*

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<sup>77</sup> *Supra*, note 4

<sup>78</sup> *Supra*, note 6

An untried prisoner shall be allowed to procure at his/her own expense or at the expense of a third party such books, newspapers, writing materials and other means of occupation as are compatible with the interests of the administration of justice and the security and good order of the institution.

*Rule 91*

An untried prisoner shall be allowed visits and treatment by his/her own doctor or dentist if there is reasonable ground for his/her application and he/she is able to pay any expenses incurred.

*Rule 92*

An untried prisoner shall be allowed to immediately inform his/her family of his/her detention. He/she shall be given all reasonable facilities for communicating with his/her family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.

*Rule 93*

For the purposes of his/her defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, to receive visits from his/her legal adviser with a view to his/her defence, and to prepare and hand confidential instructions to the legal advisor. For these purposes, he/she shall, if he/she so desires, be supplied with writing material. Interviews between the prisoner and his/her legal adviser may be within sight but not within the hearing of a police or institutional official.

### **3. Women's Rights**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>79</sup>

*Rule 8*

The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,

- (a) men and women shall so far as possible be detained in separate institutions or parts of institutions. In an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate.

*Rule 23*

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<sup>79</sup> *Supra*, note 6

1. In women's institutions there shall be special accommodations for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

2. Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery, staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

#### *Rule 53*

1. In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of that entire section of the institution.

2. No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.

3. Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.

#### **4. Treatment of Foreign Prisoners**

*The Universal Declaration of Human Rights*<sup>80</sup>

##### *Article 14*

1. Everyone has the right to seek and to enjoy asylum from persecution in other countries.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>81</sup>

##### *Principle 16*

2. If a detained or imprisoned person is a foreigner, he/she shall also be promptly informed of his/her right to communicate by appropriate means. This includes a consular post or the diplomatic mission of the state of which he/she is a national or

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<sup>80</sup> *Supra*, note 1

<sup>81</sup> *Supra*, note 4

which is otherwise entitled to receive such communication in accordance with international law or with the representative of the competent international organisation, if he/she is a refugee, or is otherwise under the protection of an intergovernmental organisation.

*Model Agreement on the Transfer of Foreign Prisoners*<sup>82</sup>

Annex II Recommendations on the treatment of foreign prisoners

1. The allocation of a foreign prisoner to a prison establishment should not be effected on the grounds of his/her nationality alone.
2. Foreign prisoners should have the same access as national prisoners to education, work and vocational training.
3. Foreign prisoners should in principle be eligible for measures alternative to imprisonment, as well as for prison leave and other authorised exits from prison according to the same principles as nationals.
4. Foreign prisoners should be informed promptly after reception into a prison, in a language that they understand, the main features of the prison regime, including relevant rules and regulations.
5. The religious precepts and customs of foreign prisoners should be respected.
6. Foreign prisoners should be informed without delay of their rights to request contacts with their consular authorities, as well as of any other relevant information regarding their statuses. If foreign prisoners wish to receive assistance from a diplomatic or consular authority, the latter should be contacted promptly.
7. Foreign prisoners should be given proper assistance, in a language they can understand, when dealing with medical or program staff and in such matters as complaints, special accommodation, special diets and religious representation and counselling.
8. Foreign prisoner contacts with families and community agencies should be facilitated, by providing all necessary opportunities for visits and correspondence, with the consent of the prisoner. Humanitarian international organisations, such as the International Committee of the Red Cross, should be given the opportunity to assist foreign prisoners.
9. The conclusion of bilateral and multilateral agreements on the supervision of, and assistance to, offenders given suspended sentences or granted parole could further contribute to the solution of the problems faced by foreign officials.

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<sup>82</sup> The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

## 5. Rights of Civil Prisoners

*Standard Minimum Rules for the Treatment of Prisoners*<sup>83</sup>

### *Article 8*

The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,

(c) persons imprisoned for debt and other civil offences shall be kept separate from persons imprisoned by reason of a criminal offence.

### *Article 94*

In countries where the law permits imprisonment for debt, or by order of a court under any other non-criminal process, persons so imprisoned shall not be subjected to any greater restriction or severity than is necessary to ensure safe custody and good order. Their treatment shall not be less favourable than that of untried prisoners, with the reservation. However, they may possibly be required to work.

*International Covenant on Civil and Political Rights*<sup>84</sup>

### *Article 11*

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

## 6. Rights of Inmate's Family

### **6.(a) Rights of Family upon Disappearance/Injury/Death of Inmate**

see also C. 21- Rights Protecting Against Summary Executions and for Juveniles see 3.(e) Notification of Illness, Injury and Death in III INMATE RIGHTS AND TREATMENT OF PRISONERS

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>85</sup>

### *Principle 34*

Whenever the death or disappearance of the detained or imprisoned person occurs during his/her detention or imprisonment, an inquiry into the cause of death or disappearance shall be held by a judicial or other authority. This can occur either on its

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<sup>83</sup> *Supra*, note 6

<sup>84</sup> *Supra*, note 2

<sup>85</sup> *Supra*, note 4

own motion or at the insistence of a family member of such a person or any person who has knowledge of the case. When circumstances so warrant, such an inquiry shall be held on the same procedural basis whenever the death or disappearance occurs shortly after the termination of the detention or imprisonment. The findings of such an inquiry or report thereon shall be made available upon request, unless doing so would jeopardize an ongoing criminal investigation.

#### ***6.(b) Right of Inmate's Family to Receive Aid***

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>86</sup>

##### *Principle 31*

The appropriate authorities shall endeavour to ensure, according to domestic law, assistance is granted to dependents and, in particular, minor members of the families of detained or imprisoned persons. The authorities shall devote a particular measure of care to the appropriate custody of children left without supervision.

## **E. JUVENILE JUSTICE**

### **1. General Rights**

#### ***1.(a) Application of the Standard Minimum Rules for the Treatment of Prisoners***

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")*<sup>87</sup>

##### *Rule 27*

1. The Standard Minimum Rules for the Treatment of Prisoners and related recommendations shall be applicable as far as relevant to the treatment of juvenile offenders in institutions, including those in detention pending adjudication.
2. Efforts shall be made to implement the relevant principles laid down in the Standard Minimum Rules for the Treatment of Prisoners to the largest possible extent so as to meet the varying needs of juveniles specific to age, sex and personality.

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<sup>86</sup> *Supra*, note 4

<sup>87</sup> *Supra*, note 17

### *1.(b) Minimal Use of Institutionalisation*

*Standard Minimum Rules for the Treatment of Prisoners*<sup>88</sup>

#### *Rule 5*

2. The category of young prisoners should include at least all young persons who come within the jurisdiction of juvenile courts. As a rule, such young persons should not be sentenced to imprisonment.

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>89</sup>

#### *Rule 1*

The juvenile justice system should uphold the rights and safety and should promote the physical and mental well being of juveniles. Imprisonment should be used as a last resort.

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)*<sup>90</sup>

#### *Rule 18*

2. No juvenile shall be removed from parental supervision, whether partly or entirely, unless the circumstances of his or her case make this necessary.

#### *Commentary*

Rule 18.2 points to the importance of the family, which, according to Article 10, Paragraph 1 of the International Covenant on Economic, Social and Cultural Rights, is “the natural and fundamental group unit of society”. Within the family, the parents have not only the right but also the responsibility to care for and supervise their children. Rule 18.2, therefore, requires that the separation of children from their parents is a measure of last resort. It may be resorted to only when the facts of the case clearly warrant this grave step (for example: child abuse).

#### *Rule 19*

1. The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period.

#### *Commentary*

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<sup>88</sup> *Supra*, note 6

<sup>89</sup> *Supra*, note 11

<sup>90</sup> General Assembly Resolution 40133 of 29 November 1985.

Progressive criminology advocates the use of non-institutional over institutional treatment. Little or no difference has been found in terms of the success of institutionalisation compared to non-institutionalisation. The many adverse influences on an individual that seem unavoidable within any institutional setting evidently cannot be outbalanced by treatment efforts. This is especially the case of juveniles, who are vulnerable to negative influences. Moreover, the negative effects, not only of loss of liberty but also of separation from the usual social environment, are certainly more acute for juveniles than for adults because of their early stage of development.

Rule 19 aims at restricting institutionalisation in two regards: in quantity (“last resort”) and in time (“minimum necessary period”). Rule 19 reflects one of the basic guiding principles of Resolution 4 of the Sixth United Nations Congress: a juvenile offender should not be incarcerated unless there is no other appropriate response. The Rule, therefore, makes the appeal that if a juvenile must be institutionalised, the loss of liberty should be restricted to the least possible degree, with special institutional arrangements for confinement and bearing in mind the differences in kinds of offenders, offences and institutions. In fact, priority should be given to “open” over “closed” institutions. Furthermore, any facility should be of a correctional or educational rather than of a prison type.

### ***1.(c) Detention Pending Trial***

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)*<sup>91</sup>

#### *Rule 13*

1. Detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time.
2. Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home.
3. Juveniles under detention pending trial shall be entitled to all rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations.
4. Juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.

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<sup>91</sup> *Supra*, note 17

5. While in custody, juveniles shall receive care, protection and all necessary individual assistance- social, educational, vocational, psychological, medical and physical, that they may require in view of their age, sex and personality.

*Commentary*

The danger to juveniles of ‘criminal contamination’ while in detention pending trial must not be underestimated. It is therefore important to stress the need for alternative measures. By doing so, Rule 13.1 encourages the devising of new and innovative measures to avoid such detentions in the interest of the juvenile’s well-being.

Juveniles under detention pending trial are entitled to all the rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners as well as the International Covenant on Civil and Political Rights, especially Article 9 and Article 10, Paragraphs 2.(b) and 3.

Rule 13.4 does not prevent states from taking other measures against the negative influences of adult offenders which are at least as effective as the measures mentioned in the rule.

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>92</sup>

*Rule 17*

Juveniles who are detained under arrest or awaiting trial (‘untried’) are presumed innocent and shall be treated as such. Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. Therefore, all efforts shall be made to apply appropriate measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention. Untried detainees should be separated from convicted juveniles.

*Rule 18*

The conditions under which an untried juvenile is detained should be consistent with the rules set out below, with specific provisions as are necessary and appropriate, given the requirements of the presumption of innocence, the duration of the detention and the legal status and circumstances of the juvenile. These provisions would include but not necessarily be restricted to the following:

1. Juveniles should have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available, and to communicate regularly with their legal advisers. Privacy and confidentiality shall be ensured for such communications.

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<sup>92</sup> *Supra*, note 11

2. Juveniles should be provided, where possible, with opportunities to pursue work, and remuneration, and continue education or training, but should not be required to do so. Work, education or training should not cause the continuation of the detention.

3. Juveniles should receive and retain materials for their leisure and recreation as are compatible with the interests of the administration of justice.

### ***1.(d) Right to Equal Treatment/Freedom from Discrimination***

#### *International Covenant on Civil and Political Rights*<sup>93</sup>

##### *Article 24*

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, nation or social origin, property or birth, the right to such measures of protection as are required by his/her status as a minor, on the part of his/her family, society, and the state.

#### *United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*

##### *Rule 4*

The rules should be applied impartially, without discrimination of any kind as to race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability. The religious and cultural beliefs, practices and moral concepts of the juvenile should be respected.

#### *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)*<sup>94</sup>

##### *Rule 2*

1. The following Standard Minimum Rules shall be applied to juvenile offenders impartially, without distinction of any kind, for example as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

### ***1.(e) Right to Life, Liberty and Security***

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<sup>93</sup> *Supra*, note 2

<sup>94</sup> *Supra*, note 17

### 1.(e)(i) General

*United Nations Rules for the Protection of Juveniles Deprived of their Liberty* <sup>95</sup>

#### *Rule 2*

Juveniles should only be deprived of their liberty in accordance with the principles and procedures set forth in these Rules and in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”). Deprivation of a juvenile’s liberty should be a disposition of last resort, for the minimum necessary period and should be limited to exceptional cases. The judicial authority, without precluding the possibility of his or her early release, should determine the length of the sanction.

#### *Rule 11*

For the purposes of the Rules, the following definitions should apply:

1. A juvenile is every person under the age of 18. Law should determine the age below which it should not be permitted to deprive a child of his or her liberty.
2. The deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority.

#### *Rule 12*

The deprivation of liberty should be effected in conditions and circumstances that ensure respect of the human rights of juveniles. Juveniles detained in facilities should be guaranteed the benefit of meaningful activities and programs which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society.

#### *Rule 13*

Juveniles deprived of their liberty shall not for any reason related to their status be denied the civil, economic, political, social or cultural rights to which they are entitled under national or international law, and which are compatible with the deprivation of liberty.

#### *Rule 14*

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<sup>95</sup> *Supra*, note 11

The competent authority shall ensure the protection of the individual rights of juveniles with special regard to the legality of the execution of the detention measures. The objectives of social integration should be secured by regular inspections and other means of control carried out, according to international standards, national laws and regulations, by a duly constituted body authorised to visit the juveniles and not belonging to the detention facility.

#### 1.(e)(ii) Capital Punishment

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)*<sup>96</sup>

##### *Rule 17*

2. Capital punishment shall not be imposed for any crime committed by juveniles.
3. Juveniles shall not be subject to capital punishment.

*Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty*<sup>97</sup>

3. Persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane.

#### ***1.(f) Limitation of Physical Restraint and the Use of Force***

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>98</sup>

##### *Rule 63*

Recourse to instruments of restraint and to force for any purpose should be prohibited, except as set forth in Rule 64 below.

##### *Rule 64*

Instruments of restraint and force can only be used in exceptional cases when all other control methods have been exhausted and failed, and only as explicitly authorised and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time. By order of the prison warden of the administration, such instruments might be resorted to in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the prison warden should at once consult medical and other relevant personnel and report to the higher administrative authority.

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<sup>96</sup> *Supra*, note 17

<sup>97</sup> *Supra*, note 7

<sup>98</sup> *Supra*, note 11

*Rule 65*

The carrying and use of weapons by personnel should be prohibited in any facility where juveniles are detained.

***1.(g) Guiding Principles in Adjudication and Disposition***

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)*<sup>99</sup>

*Rule 17*

1. The disposition of the competent authority shall be guided by the following principles:

1. The reaction taken shall always be in proportion not only to the circumstances and the gravity of the offence but also to the circumstances and the needs of the juvenile as well as to the needs of the society.
  2. Restrictions on the personal liberty of the juvenile shall be imposed only after careful consideration and shall be limited to the possible minimum.
  3. Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response.
  4. The well-being of the juvenile shall be the guiding factor in the consideration of his or her case.
4. The competent authority shall have the power to discontinue the proceedings at any time.

*Rule 20*

1. Each case shall, from the outset, be handled expeditiously without any unnecessary delay.

*Commentary*

The speedy conduct of formal procedures in juvenile cases is a paramount concern. Otherwise, whatever good the procedure and the disposition may achieve is at risk. As time passes, the juvenile will find it increasingly

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<sup>99</sup> *Supra*, note 17

difficult, if not impossible, to relate the procedure and disposition to the offence, both intellectually and psychologically.

*International Covenant on Civil and Political Rights*<sup>100</sup>

*Article 10*

2.(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

*Article 14*

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

***1.(h) Admission and Registration***

see also I ADMINISTRATION

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>101</sup>

*Rule 6*

The Rules should be made readily available to juvenile justice personnel in their national languages. Juveniles who are not fluent in the language spoken by the personnel of the detention facility should have the right to the services of an interpreter free of charge whenever necessary, in particular during medical examinations and disciplinary proceedings.

*Rule 22*

The information on admission, place, transfer and release should be provided without delay to the parents and guardians or closest relative of the juvenile concerned.

*Rule 24*

On admission, all juveniles shall be given a copy of the rules governing the detention facility and a written description of their rights and obligations in a language they can understand, the address of the authorities competent to receive complaints, and the address of public or private agencies and organisations which provide legal assistance. For those juveniles who are illiterate or who cannot understand the language in the written form, the information should be conveyed in a manner enabling full comprehension.

*Rule 25*

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<sup>100</sup> *Supra*, note 2

<sup>101</sup> *Supra*, note 11

All juveniles should be helped to understand the regulations governing the internal organisation of the facility, the goals and methodology of the care provided, the disciplinary requirements and procedures, other authorised methods of seeking information and of making complaints, and all such other matters as are necessary to enable them to fully understand their rights and obligations during detention.

## 2. Rights under the Law

### 2.(a) General

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)*<sup>102</sup>

#### *Rule 7*

1. Basic procedural safeguards such as the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross examine witnesses and the right to appeal to a higher authority, shall be guaranteed at all stages of proceedings.

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)*<sup>103</sup>

#### *Rule 15*

1. Throughout the proceedings, the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid where there is provision for such aid in the country.

2. The parents or guardians shall be entitled to participate in the proceedings and may be required by the competent authority to attend them in the interest of the juvenile. They may, however, be denied participation by the competent authority if there are reasons to assume that such exclusion is necessary in the interest of the juvenile.

#### *Commentary*

Rule 15.1 uses terminology similar to that found in Rule 93 of the Standard Minimum Rules for the Treatment of Prisoners. Whereas legal counsel and free legal aid are needed to assure the juvenile legal assistance, the right of the parents or guardian to participate as stated in Rule 15.2 should be viewed as general psychological and emotional assistance to the juvenile- a function extending throughout the procedure.

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<sup>102</sup> *Supra*, note 17

<sup>103</sup> *Supra*, note 17

The competent authority's search for an adequate disposition of the case may profit, in particular, from the cooperation of the legal representatives of the juvenile (or, for that matter, some other personal assistant who the juvenile can and does really trust). Such concern can be thwarted if the presence of parents or guardians at the hearings plays a negative role; for instance, if they display a hostile attitude towards the juvenile, the possibility of their exclusion must be provided for.

### **3. Rights During Imprisonment**

#### ***3.(a) Right to Separate Treatment***

*International Covenant on Civil and Political Rights*<sup>104</sup>

##### *Article 10*

2.(a) Accused persons shall, save in exceptional circumstances, be separated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.

3. The penitentiary system shall comprise of the treatment of prisoners, with the essential aim being their social reformation and social rehabilitation. Juvenile offenders shall be separated from adults and be accorded treatment appropriate to their age and legal status.

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")*<sup>105</sup>

##### *Rule 13*

4. Juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.

##### *Rule 26*

3. Juveniles in institutions shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution which holds adults.

4. Young female offenders placed in an institution deserve special attention for their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be ensured.

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<sup>104</sup> *Supra*, note 2

<sup>105</sup> *Supra*, note 17

*Commentary*

The avoidance of negative influences through adult offenders and the safeguarding of the well-being of juveniles in an institutional setting, as stipulated in Rule 26.3, are in line with one of the basic guiding principles of the Rules, as set out by the Sixth Congress in its Resolution 4. The Rule does not prevent states from taking other measures against the negative influences of adult offenders, which are at least as effective as the measures mentioned in the rule. (see also Rule 13.4)

*Commentary*

Rule 26.4 addresses the fact that female offenders normally receive less attention than male counterparts as pointed out by the Sixth Congress. In particular, Resolution 9 of the Sixth Congress calls for the fair treatment of female offenders at every stage of criminal justice processes and for special attention to their particular problems and needs while in custody. Moreover, this rule should also be considered in the light of the Caracas Declaration of the Sixth Congress, which, *inter alia*, calls for equal treatment in criminal justice administration, and against the background of the Declaration on the Elimination of Discrimination against Women and the Convention on the Elimination of All Forms of Discrimination Against Women.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>106</sup>

8.(d) Young prisoners shall be kept separate from adults.

***3.(b) Right To Independent Inspections: Inspections of Juvenile Facilities****United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>107</sup>*Rule 72*

Qualified inspectors or an equivalent duly constituted authority not belonging to the administration of the facility, should be empowered to conduct inspections on a regular basis, undertake unannounced inspections on their own initiative, and enjoy full guarantees of independence in the exercise of this function. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.

*Rule 73*

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<sup>106</sup> *Supra*, note 6

<sup>107</sup> *Supra* note

Qualified medical officers attached to the inspecting authority or the public health service should participate in the inspections and evaluating of compliance with the rules concerning the physical environment, hygiene, accommodation, food, exercise and medical services, as well as any other aspect or condition of institutional life that affect the physical and mental health of juveniles. Every juvenile should have the right to talk in confidence to any inspecting officer.

*Rule 74*

After completing the inspection, the inspector should be required to submit a report of the findings. The report should include an evaluation of the compliance of the detention facilities with the present rules and relevant provisions of the national law, and recommendations regarding any steps considered necessary to ensure compliance with them. Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning the rights of juveniles or the operation of a juvenile detention facility has occurred should be communicated to the competent authorities for investigation and prosecution.

*Rule 75*

Every juvenile should have the opportunity to make requests or complaints to the facility director and to his/her authorised representative.

*Rule 76*

Every juvenile should have the right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.

*Rule 77*

Efforts should be made to establish an independent office (ombudsman) to receive and investigate complaints made by juveniles deprived of their liberty and to assist in the achievement of equitable settlements.

*Rule 78*

Every juvenile should have the right to request assistance from family members, legal counsellors, humanitarian groups or others where possible, in order to make a complaint. Illiterate juveniles should be provided with assistance should they need to use the services of public or private agencies and organisations that provide legal counsel or which are competent to receive complaints.

**3.(c) *Physical Environment and Accommodation***

*Rule 31*

Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.

*Rule 35*

The possession of personal effects is a basic element of the right to privacy and essential to the psychological well-being of the juvenile. The right of every juvenile to possess personal effects and to have adequate storage facilities for them should be fully recognised and respected. Personal effects that the juvenile does not choose to retain or that are confiscated should be placed in sole custody. The juvenile thereof should sign an inventory. Steps should be taken to keep effects in good condition. All such articles and money should be returned to the juvenile on release, except in so far as he or she has been authorised to spend money or send such property out of the facility. If a juvenile receives or is found in possession of any medicine, the medical officer would decide what use should be made of it.

*Rule 36*

To the extent possible juveniles should have the right to use their own clothing. Detention facilities should ensure that each juvenile has personal clothing suitable for the climate and adequate to ensure good health, and which should in no manner be degrading or humiliating. Juveniles removed from or leaving a facility for any purpose should be allowed to wear their own clothing.

**3.(d) Education, Vocational Training and Work**

see II CASE MANAGEMENT

**3.(e) Recreation**

see II CASE MANAGEMENT and V HEALTH

**3.(f) Religion**

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>108</sup>

*Rule 48*

Every juvenile should be allowed to satisfy the needs of his/her religious and spiritual life, in particular by attending the services or meetings provided in the detention facility or by conducting his/her own services and having possession of the necessary books or items of religious observance and instruction of his/her denomination. If a detention facility contains a sufficient number of juveniles of a given religion, one or more qualified representatives of that religion should be appointed or approved and allowed to hold regular services and to pay pastoral visits in private to juveniles at their request. Every juvenile should have the right to receive visits from a qualified representative of any

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<sup>108</sup> *Supra*, note 11

religion of his/her choice, as well as the right not to participate in religious services and to freely decline religious education, counselling or indoctrination.

**3.(g) Health and Medical Care**

see V HEALTH

**3.(h) Notification of Imprisonment, Transfer, Illness, Injury and Death**

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>109</sup>

*Rule 56*

The family or guardian of a juvenile and any other person designated by the juvenile has the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. The prison warden should immediately notify the family or guardian of the juvenile concerned, or other designated person, in case of death, illness requiring transfer of the juvenile to an outside medical facility, or a condition requiring clinical care within the detention facility for more than forty-eight hours. Notification should also be given to the consular authorities of the state to which the foreign juvenile is a citizen.

*Rule 57*

Upon the death of a juvenile during the period of deprivation of liberty, the nearest relative should have the right to inspect the death certificate, see the body and determine the method of disposal of the body. Upon the death of a juvenile in detention, there should be an independent inquiry into the cause of death, the report of which should be made accessible to the nearest relative. This inquiry should also be made when the death of a juvenile occurs within six months from the date of his or her release from the detention facility and there is reason to believe that the death is related to the period of detention.

*Rule 58*

A juvenile should be informed at the earliest possible time of the death, serious illness or injury of any immediate family member. He/she should be provided with the opportunity to attend the funeral of the deceased or go to the bedside of the critically ill relative.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>110</sup>

*Rule 44*

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<sup>109</sup> *Supra*, note 11

<sup>110</sup> *Supra*, note 6

1. Upon the death or serious illness of, or serious injury to, a prisoner or his/her removal to an institution for the treatment of mental affections, the prison warden shall at once inform the spouse, if the prisoner is married, or the nearest relative and shall in any event inform any other person designated by the prisoner.
2. A prisoner shall be informed at once of the death or serious illness of any near relative. In case of the critical illness of a near relative, the prisoner should be authorised, whenever circumstances allow, to go to his/her bedside either under escort or alone.
3. Every prisoner shall have the right to immediately inform his/her family of his/her imprisonment or transfer to another institution.

### ***3.(i) Contacts with the Wider Community***

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)* <sup>111</sup>

#### *Rule 26*

5. In the interest and well-being of the institutionalised juvenile, the parents or guardians shall have a right of access.

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* <sup>112</sup>

#### *Rule 59*

Every means should be provided to ensure that juveniles have adequate communication with the outside world. This is an integral part of the right to fair and humane treatment and is essential to the preparation of juveniles for their return to society. Juveniles should be allowed to communicate with their families, friends and other persons or representatives of reputable outside organisations, to leave detention facilities for a visit to their homes and families and to receive special permission to leave the detention facility for educational, vocational or other important reasons. Should the juvenile be serving a sentence, the time spent outside a detention facility should be counted as part of the period of sentence.

#### *Rule 60*

Every juvenile should have the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the juvenile’s need for privacy, contact and unrestricted communication with the family and the defense counsel.

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<sup>111</sup> *Supra*, note 17

<sup>112</sup> *Supra*, note 11

*Rule 61*

Every juvenile should have the right to communicate in writing or by telephone at least twice a week with the person of his or her choice, unless legally restricted, and should be assisted as necessary in order to effectively enjoy this right. Every juvenile should have the right to receive correspondence.

*Rule 62*

Juveniles should have the opportunity to keep themselves informed regularly of the news by reading newspapers, periodicals and other publications, through access to radio and television programs and motion pictures, and through the visits of the representatives of any lawful club or organisation in which the juvenile is interested.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>113</sup>*Principle 16*

3. If a detained or imprisoned person is a juvenile or is incapable of understanding his/her entitlement, the competent authority shall on its own initiative undertake the notification referred to in the present Principle. Special attention shall be given to notifying parents or guardians.

**3.(j) Inspections and Complaints***United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>114</sup>*Rule 75*

Every juvenile should have the opportunity to make requests or complaints to the prison warden and to his or her authorised representative.

*Rule 76*

Every juvenile should have the right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.

*Rule 77*

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<sup>113</sup> *Supra*, note 4

<sup>114</sup> *Supra*, note 11

Efforts should be made to establish an independent office (ombudsman) to receive and investigate complaints made by juveniles deprived of their liberty and to assist in the achievement of equitable settlements.

*Rule 78*

Every juvenile should have the right to request assistance from a family member, legal counsellors, humanitarian groups or others where possible, in order to make a complaint. Illiterate juveniles should be provided with assistance should they need to use the services of public or private agencies and organisations that provide legal counsel or which are competent to receive complaints.

**3.(k) Privacy**

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>115</sup>

*Rule 19*

All reports, including legal records, medical records and records of disciplinary proceedings, and all other documents relating to the form, content and details of treatment, should be placed in a confidential individual file. The file should be kept up-to-date, accessible only to authorised persons and classified in such a way as to be easily understood. Where possible, every juvenile should have the right to contest any fact or opinion contained in his or her file so as to permit rectification of inaccurate, unfounded or unfair statements. In order to exercise this right, there should be procedures that allow an appropriate third party to have access to, and to consult the file on request. Upon release, the records of juveniles shall be sealed, and, at an appropriate time, expunged.

*Rule 87*

(e) All personnel should respect the right of the juvenile's privacy, and, in particular, should safeguard all confidential matters concerning juveniles or their families learned as a result of their professional capacity.

*United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")*<sup>116</sup>

*Rule 8*

1. The juvenile's right to privacy shall be respected at all stages in order to avoid harm being caused to him/her by undue publicity or by the process of labelling.

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<sup>115</sup> *Supra*, note 11

<sup>116</sup> *Supra*, note 17

2. In principle, no information that may lead to the identification of a juvenile offender shall be published.

*Commentary*

Rule 8 stresses the importance of the protection of the juvenile's right to privacy. Young persons are particularly susceptible to stigmatisation. Criminological research into labelling processes has provided evidence of the detrimental effects (of different kinds) resulting from the permanent identification of the young persons as "delinquent" or "criminal".

Rule 8 stresses the importance of protecting the juvenile from the adverse effects that may result from the publication in the mass media of information about the case (for example the names of young offenders, alleged or convicted). The interest of the individual should be protected and upheld, at least in principle.

*Rule 21*

1. Records of juvenile offenders shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the case at hand or other duly authorised persons.

## **PART TWO: PROPOSED PRISON POLICY**

### **A. RIGHTS BEFORE THE LAW**

#### **1. Rights upon Arrest**

Everyone has the right on arrest or detention

- (a) to be informed promptly of the reason;
- (b) to retain and instruct counsel without delay and to be informed of that right; and
- (c) to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful,

subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

There may be circumstances requiring prison officers to inform individuals of their rights on arrest or detention, as follows:

- (i) The arrest, following pursuit, and return to custody of inmates who have escaped from a prison or escort
- (ii) The arrest and return to custody of inmates on temporary absence who have breached one or more conditions
- (iii) The arrest of persons who are not inmates (e.g. visitors), who are believed to be committing a criminal offence in a prison, or are aiding the escape of an inmate from a prison or escort

Upon the arrest of an inmate or other person in the above, or similar, circumstances, the prison officer shall inform the inmate or other person of:

- (a) the reason for the arrest (for example “I am arresting you for escaping lawful custody”), and
- (b) the right to retain and instruct counsel without delay.

Correctional officers shall be issued cards indicating standard wording for the rights that must be read to the inmate or other person upon arrest.

#### **2. Interrogation**

Correctional officers in their capacity as peace officers, are “persons in authority” the purpose of determining whether a statement is obtained “voluntarily” from the accused, and is admissible as evidence.

Where an inmate “volunteers” or discloses information concerning involvement in a criminal offence, the correctional officer should read the official “warning” to the inmate at the earliest

stage of the conversation. The officer during or immediately following the conversation should record personal notes of the contents of the conversation.

### **3. Right to Legal Counsel**

Correctional officers shall ensure that the inmate, or other person arrested, is given opportunity to contact a lawyer at the earliest practical opportunity after the arrest, should the inmate or other person wish to exercise that right.

Where persons other than the inmates are arrested, the police shall be notified immediately.

Each prison warden shall ensure that a list of the names and phone numbers of legal aid duty lawyers is available to assist staff in complying with requests by arrested persons to contact duty counsel.

The prison warden shall support efforts by inmates to gain access to courts for any reasonable purpose.

#### *Discussion:*

The prison service has an obligation to ensure that all inmates are provided with access to court to plead any issue. Issues include a challenge of the legality of their confinement or conviction, an application seeking redress of illegal conditions of treatment while under correctional control, or the pursuit of remedies in connection with civil legal problems.

All prisons shall establish, maintain, and/or grant inmate access to a basic legal library.

Inmates shall have the right to consult with legal counsel in private during reasonable hours.

### **4. Appeal Procedures**

#### ***4.(a) Filing of Appeal***

An inmate convicted of either an indictable or summary offence may appeal his/her conviction and/or sentence within thirty days.

Forms requiring submittal to the court of appeal should be made available to offenders in the correctional records office.

#### ***4.(b) Appeal Information***

The prison warden shall ensure that, upon admission, every sentenced inmate receives a copy of the form regarding appeal information. This form should be signed by the inmate and witnessed by an officer at the prison.

#### ***4.(c) Notification of Results of an Appeal***

When an appeal is heard, it can sometimes take several weeks to receive the appeal court order. To inform the prison of the results of the appeal, the court of appeal will issue a letter to the concerned prison after the case has been heard, noting the results of the appeal. This letter is for information purposes only and cannot be used as the formal document to recalculate sentences and/or receive or release inmates. The actual court order is required for these purposes.

## **B. RIGHTS DURING TERM OF IMPRISONMENT**

### **1. Visits**

#### ***1.(a) General Comments***

Visits provide an opportunity for inmates to maintain contact with family and friends. Private family visits provide a further mechanism for inmates to maintain and strengthen family relationships particularly between incarcerated parents and their children.

#### ***1.(b) Types of Visitors***

There are three different categories of visitors.

1. Professional (e.g. lawyers, doctors, chaplains, police officers, probation and parole officers, etc.)

Visits made to an inmate by this category of visitor are usually on a one-to-one basis and require privacy of communication.

These visitors may visit an inmate at any reasonable time and inmates are not limited as to the number of these visits they may receive during their stay in custody.

2. Program (e.g. volunteers, private agencies, community groups, etc.)

Subject to approval of the prison warden or delegate, visits made by these visitors are usually for the purposes of providing an activity, program, or service to a number of inmates.

The setting for, and supervision of, these visits is usually determined by the type of activity, program or service involved and by the type of inmate participating in the activity, program, or service.

3. Family, Friends, Relatives

These visitors usually visit one inmate at a time during the visiting hours set by the prison for this purpose. An inmate is entitled to a minimum of two hours of these visits per week.

### ***1.(c) Visit Settings***

The setting for visits is determined mostly by the prison's physical plant, availability of staff supervision, and by the type of inmate and visitor involved in the visit. In all settings, inmates and visitors shall be expected to behave in a manner acceptable in a public place.

Generally there are four types of visit settings.

#### **1. Official**

These settings are used in the case of professional visits which require privacy because of the confidentiality of the information to be discussed during the visit.

#### **2. Closed**

In these settings there is a barrier (e.g. a glass partition) between the inmate and visitor which prohibits physical contact, but does not impair vision or oral communication.

#### **3. Open**

In these settings there is no barrier between the inmate and the visitor and hence allows for physical contact.

#### **4. Private Family Visits**

In these settings, inmates are permitted access to a self-contained area (i.e. cottage, trailer, apartment, etc.) that permits overnight visits involving family members.

### ***1.(d) Hours of Operation***

Visiting hours shall be as follows:

Monday to Friday, 1830-2130 hours

Weekends and Statutory Holidays EXCEPT Christmas Day: 1000-1500 hours

### ***1.(e) Visiting Process***

#### **1.(e)(i) Coordinator Responsibilities**

The coordinator shall be responsible for:

- (i) Scheduling visits
- (ii) Explaining the rules and regulations to inmates
- (iii) Handling all paperwork associated with the visit
- (iv) Arranging a cleaning schedule for the unit

1.(e)(ii) Visit Requests

Visit requests by inmates and visitors shall be made for each visit in the manner prescribed by the prison warden.

Only the inmate shall initiate requests for private family visits.

1.(e)(iii) Screening

Upon receipt, all visit requests may be screened to determine whether or not the visit should be granted and to determine under what conditions (i.e. time, setting, and supervision) the visit should occur.

Processing visit requests shall not be delayed beyond the reasonable time to come to a decision on the request.

If the request is granted, the visit(s) shall commence without undue delay.

For the purposes of private family visits, all applicant visitors shall be subject to a community assessment check. The community assessment shall address, in addition to general suitability, any medication or special dietary needs of the visitor.

The prison warden shall establish a decision-making process with respect to applications for private family visits, which may include the use of a review panel. Private family visits will be scheduled according to facility availability in accordance with the established policy for frequency of such visits.

1.(e)(iv) Visit Restrictions

Restrictions on visiting shall not be imposed arbitrarily, nor without “good cause”. Reasons constituting “good cause” for denying, terminating, restricting, or revoking visits include any of the following:

1. Where, on reasonable and probable grounds it is believed that:
  - (a) the safety of the inmates(s) and/or the visitor(s) and/or security of the prison would be, or is jeopardized by the visit, and/or
  - (b) the visit would impede carrying out the court’s order of custody with regard to one or more of the inmates accommodated in the prison, and the ways and means available within the prison to control the time, setting and supervision of the visit would not reduce the risk posed by the visit to a tolerable level.
2. Where as a result of an infraction that is found to have occurred as a direct result of a visit, the disciplinary panel imposes as a disposition the temporary or permanent loss of visiting privileges.
3. Where the visitor is under the age of eighteen and

- (a) is not in the company of a parent or guardian, or
- (b) does not have written consent of a parent or guardian to visit.

4. Where the visitor is apparently under the influence of drugs or alcohol.

5. Where the inmate does not wish to see the visitor.

6. In the case of private family visits, visitors shall be limited to the inmate's legally married spouse, established common-law partner, children, siblings, grandparents, in-laws or other persons authorised by the prison warden.

### ***1.(f) Private Family Visits***

#### **1.(f)(i) Private Family Visits- Process**

Inmates applying for a private family visit shall use the prescribed private family visit application form.

An institutional report addressing the inmate's behavior and appropriateness for a private family visit shall be prepared by the case manager.

The completed application, along with the institutional report and the signed visitor form, shall be forwarded to the prison warden or designate for decision.

The inmate shall be notified of the decision in writing.

Each centre having a private family visit unit shall establish local policy and procedures that address all issues related to private family visits, including:

- (i) Numbers of visitors
- (ii) Frequency of availability of the private family visit unit
- (iii) Duration of the visits
- (iv) Local specific concerns- i.e. smoking etc.
- (v) Local rules- i.e. grounds access etc.
- (vi) Food services issues- i.e. cooking arrangements, provisions of staples etc.
- (vii) Per diem costs if applicable
- (viii) Medications - visitors, inmates
- (ix) Counts
- (x) Inmate-staff communication system
- (xi) Emergency procedures
- (xii) Cleaning and servicing of P.F.V. unit
- (xiii) Security issues- frisking of visitors and inmates
- (xiv) Rules and regulations

#### **1.(f)(ii) Private Family Visits- Criteria**

An inmate applying for a private family visit shall meet the following criteria:

- (i) Has served a minimum of six months, in their current period of incarceration
- (ii) Has established a positive record of work performance and/or program participation during his/her current period of incarceration
- (iii) Has not been found guilty of any disciplinary infraction for a minimum period of three months immediately prior to the application
- (iv) Does not meet, or appear to meet, the criteria for an unescorted temporary absence
- (v) Granting the private family visit would not be in violation of any existing court order
- (vi) Has not been granted a private family visit in the past eight weeks

#### 1.(f)(iii) Frequency and Duration of Visits

If space is available in the private family visiting unit, each inmate eligible for the program will be allowed the following:

- (i) A maximum of seventy-two hours every two months
- (ii) The minimum duration of each visit will be twenty-four hours

No back to back visits will be allowed.

#### 1.(f)(iv) Number of Participants Allowed

The maximum number of participants, including the inmate, will be three adults and four children.

#### 1.(f)(v) Cancellation of Visit

If the inmate has to cancel the visit, he/she will be placed back on the waiting list and the cancelled visit will be offered to the next applicant on the list.

#### 1.(f)(vi) Private Family Visits- Allowable Items

Visitors attending a prison for the purpose of participating in a private family visit shall be permitted to bring:

1. Personal hygiene items including contraceptives.
2. Prescription medicines- provided that there is on file a physician's letter confirming the medication, the original container is used and that the visitor's name and the dosage are specified on the label. Only the amount required to cover the time of the visit will be permitted.
3. Where children are included, the necessary care items to meet the child's needs, including appropriate food supplies.
4. All necessary food supplies to cover the duration of the visit. In prisons where the food and/or staples are provided, a per diem rate shall be established and applied as

necessary. To reduce the possibility of contraband being brought in, all food products shall be brought in unopened in the original sealed containers.

5. Any other items as authorised by the prison warden.

#### 1.(f)(vii) Private Family Visits- Regulations

Visitors shall be responsible for arriving at the scheduled visit time.

The officer in charge of the prison may authorise changes in arrival times, departure times and duration of participation by visitors as each situation may warrant.

Inmates shall be responsible for food expenses incurred during the visit. If the visitors wish to pay for their food for the visit, money to pay for this shall be deposited into the inmates savings account at least twenty days in advance of the visit.

The inmate shall then submit a transfer of funds to have this money transferred to his/her current account in order to pay for the visit.

Inmates and their visitors must remain in the private family visiting area for the duration of the visit, unless they have authority from staff to leave the private family visiting unit for a specific reason.

Supervision of children shall be the responsibility of the inmate and his/her visitors at all times during the visit.

Inmates shall be responsible for any damage that occurs in the private family visits unit.

Failure to leave the private family visit unit in a neat and clean condition may result in the suspension of private family visits.

Staff will visit the private family visits unit twice each day, once in conjunction with the noon count and once during the evening shift, to ensure the security and safety of all its occupants.

In the case of any disturbance in the private family visiting unit area, the visit may be terminated at the discretion of the officer in charge of the prison/shift.

Alcohol is not allowed under any condition.

In the case of fire, participants in the private family visit unit will follow procedures posted in that unit.

Once evacuated from the unit they shall proceed to the outside of the prison.

#### ***1.(g) Visitor Identification/Admission***

All visitors shall be required to provide proof of identity before being admitted to the prison.

A visitor's registry shall be kept in all centres and shall record the name, address, identity and the relationship to the inmate of every visitor, along with the nature, date and duration of the visit.

Any visitor who refuses to comply with these requirements shall be denied entry to the prison.

Inmate visitors will report to the main gate and sign in prior to proceeding into the prison. The main gate staff will check to ensure that the visitor is not under the influence of alcohol, etc., and then advise the visits staff of the visitor. The visitor will then proceed to report to the visits staff. The visitor must sign out through the main gate.

### ***1.(h) Sign***

The prison warden must ensure that all visitors entering the centre are aware of the director's authority to regulate visits. Accordingly, the prison warden shall ensure a sign is posted in a place clearly visible to all visitors entering the centre.

### ***1.(i) Notice to Visitors***

The prison warden is authorised to terminate a visit and/or suspend further visits by any person:

- (a) who brings or assists in bringing contraband to or from the prison, or
- (b) whose conduct causes concern for the safety of inmates or the security of the prison.

### ***1.(j) Minor or Major Threat***

A threat by an inmate or visitor to the security of the centre will be in the category of:

- 1. A minor or lesser threat- (e.g. the visitor indulges in vulgarity or profanity or is quarrelsome)
- 2. A major or serious threat- (e.g. the visitor is in possession of contraband that constitutes the commission of an offence)

### ***1.(k) Suspension***

#### **1.(k)(i) General**

The prison warden, according to the judgement of the threat as minor or major:

1. May impose in the case of a minor threat, if a verbal warning has been ineffective, one of the following:

- (i) Arising out of a regular visit:
  - (a) on the first incident, up to fifteen days suspension of visits; and
  - (b) on subsequent incidents, up to thirty days suspension of visits.
- (ii) Arising out of a private family visit:

- (a) on the first incident, suspension of the next eligible private family visiting opportunity; and
- (b) on subsequent incidents, suspension of up to three of the next eligible private family visit opportunities.

2. May impose in the case of a major threat, except in the case of an incident arising from a private family visit, one of the following:

- (i) On the first incident a minimum sixty-day suspension of visits
- (ii) On subsequent incidents, up to one year suspension of visits

3. May impose, in the case of a major threat resulting from a private family visit:

- (i) On the first incident, a suspension of private family visits for a period of up to one year
- (ii) On a second incident, a suspension of private family visits for a period of up to two years
- (iii) On any subsequent incident, and indefinite suspension of private family visits

It should be noted that suspensions of private family visits apply with respect to the visitor involved, i.e. suspension of visits with the spouse does not preclude visits with parents, children, etc.

In addition to any suspension of private family visits, the prison warden may impose any additional suspension of regular visits pursuant to 1 and 2 above.

The prison warden, in exercising this discretion, should be guided by such factors as the nature of the evidence, the operational needs of the prison, and the past conduct or cooperation of the visitor.

The reasons for this decision should be conveyed clearly to the visitor, and it is important that the prison warden keep a written record of the evidence and the factors upon which the decision is based. Reference to this information may be necessary in the event that the decision is appealed.

#### 1.(k)(ii) Suspension Beyond One Year

In the event that the prison warden determines that it is both appropriate and necessary to suspend beyond one year the visiting privileges of any person, the approval of the district or regional is required prior to imposing such a suspension.

#### 1.(k)(iii) Written Notification

Upon reaching the decision to terminate a visit or to suspend a person's visiting privileges for any period, the prison warden shall:

(a) communicate the decision and the justification for it, in writing, to the visitor and to the inmate concerned (and, by copy), to the commissioner or person at the next appropriate level, and

(b) inform the visitor and inmate of the existence of the procedure (as outlined below) for appealing a decision to suspend a person's visiting privileges.

#### 1.(k)(iv) Appeal

Persons wishing to appeal a decision to suspend visiting privileges may do so either by:

(a) requesting the prison warden to reconsider the decision, in which case the prison warden shall respond in writing within ten working days; or

(b) contacting the prison warden (or person at the next appropriate level) to review the decision and respond in writing within ten working days.

#### **1.(l) Searches of Visitors**

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#### **1.(m) Visiting Area**

Every prison shall identify an open, indoor visiting area sufficient to accommodate 25% of the inmates at any one time, plus two visitors per inmate.

##### *Discussion:*

In open visits, privacy of conversation should be a primary consideration in identifying a visiting area. The provision of sufficient space and minimal interruption or intrusion on orderly social interaction should be the objectives of supervisors on these occasions.

Secure custody centres shall incorporate an indoor visiting area that provides for both secure and open visiting. The open visiting area shall be capable of accommodating a minimum of 10% of the inmate population plus two visitors per inmate simultaneously.

## **2. Correspondence**

### **2.(a) Definition**

Correspondence means written letters, business/legal letters.

### **2.(b) Categories**

There shall be two categories of correspondence:

1. General correspondence

2. Confidential correspondence

General correspondence is that which is personal in nature and shall be opened to search for contraband (incoming and outgoing).

Mail that is not defined as “privileged”, correspondence to and from inmates shall only be subject to search and examination where, in the opinion of the prison warden, the contents of that mail could potentially affect the management, good order and discipline of the prison.

Privileged/confidential correspondence is that which is legal or otherwise privileged (i.e. member of parliament) and if clearly identified, shall be delivered unopened.

Inmates shall be entitled to unlimited incoming and outgoing correspondence.

*Discussion:*

Mail is subject to search for money, drugs and/or other contraband. Non-privileged correspondence is subject to examination for the protection of the inmates (problems at home, for instance) and the maintenance of the security of the prison.

**2.(c) Copying**

Confidential correspondence shall not be copied in any form if such action would likely result in general distribution.

**2.(d) Reading and Viewing Material**

Inmates are permitted to receive books or periodicals sent directly from the publisher.

It is the responsibility of prison warden to ensure that reading and viewing material made available to inmates does not contain subject matter considered likely to encourage harmful or criminal behaviour.

Reading and viewing material made available to inmates shall not contain subject matter that:

- (a) has been declared obscene by the courts, or
- (b) is concerned with:
  - (i) Explicitly depicted or described sexual acts where the content of the reading or viewing material is entirely or primarily concerned with sex
  - (ii) Bestiality
  - (iii) Necrophilia
  - (iv) Sexual acts coupled with violence (e.g. rape, stabbing, burning, beating, gagging, binding, torture, dismemberment, mutilation, or death)
  - (v) Sexual acts coupled with excretory functions
  - (vi) Sexual acts involving children (e.g. pedophilia and incest)
  - (vii) Other, non-sexual themes of explicitly depicted violence, where the contents of the reading or viewing material is entirely or primarily concerned with violence

(viii) Information pertaining to the construction of weapons and methods of escape which represents inherent danger to the security of the prison

### **3. Religious Rights**

#### ***3.(a) General***

Notwithstanding the varying degrees of custody, security and supervision, the prison service strives to treat all inmates with respect and dignity. While it is not expected that an inmate should be afforded any preferential treatment on the basis of race, religion or ethnic background, it is expected that the prison's service will, subject only to precautions necessary for the maintenance of safety and security, demonstrate respect for the unique values, beliefs and customs of inmates.

In making assessments regarding an offender's suitability to participate in any program of confinement or conditional release, the decision-making person or group shall not impose, as a condition of confinement and/or conditional release, adherence to the active practice of any religion.

#### *Discussion:*

The intent of the standard is to see that the practice of, or the adherence to, any beliefs or religion by the person receiving 'service' from the prison's service is a product of a freely-made decision rather than a coerced decision.

Correctional staff, in the course of accompanying any offender at a service of worship or being present when an offender is receiving counsel, shall respect the sensitivity of the offender's religion or beliefs.

A person receiving any service shall have the right to follow any practice or observation prescribed by his/her religion or beliefs at such times as required by his/her religion or beliefs:

- (a) if the religion or belief meets the criteria provided for recognition and established through standards;
- (b) if the religion or belief does not violate the good order and security of the institution;
- and
- (c) if the observation of the standard does not violate the spirit or intent of any court order.

5. An incarcerated person has the right, at his/her initiative, to receive any religious publication produced by any organisation meeting the criteria provided for recognition and published through these standards.

*Discussion:*

The retention of this material in a person's "living space" will be in keeping with the prison's regulations. Such regulations will vary with the physical plant, level of security and safety considerations.

6. The following criteria should not be considered as indicative of a lack of religious support for the practice in question:

- (i) The belief is held by a small number of individuals
- (ii) The belief is of recent origin
- (iii) The belief is not based on the concept of a supreme being or the equivalent
- (iv) The belief is unpopular or controversial

**3.(b) Religious Objects**

An incarcerated person has the right to possess and wear religious medals, symbol or articles representative of religions meeting the criteria as outlined for recognition and established through standards, unless these medals, symbols or articles constitute, in the opinion of the prison warden, a threat to the safety, security or good order of the institution.

The prison warden may permit the introduction and use of religious objects for ceremonial purposes, where it is clearly established that such objects do not present a security threat. Generally accepted objects used in such ceremonies include:

- (i) Ceremonial herbs
- (ii) Ceremonial pipes (only used by recognised pipe carriers)
- (iii) Ceremonial blankets
- (iv) Feathers
- (v) Sea shells
- (vi) Medicine bags

**3.(b)(i) Headdress**

A prison warden shall permit an inmate to wear a headdress particular to a race, creed or faith unless:

- (a) for specific reason, the inmate is believed to be violent or suicidal and the headdress would present a danger to the inmate or others; or,
- (b) the wearing of the headdress will jeopardize the safety of the inmate (e.g. if the inmate is either to enter a hazardous work area or to work with tools or motorized equipment where the wearing of a hard-hat is required).

The prison warden may permit an inmate an alternative head covering when a headdress is not permitted to be worn.

A headdress, when not in use, should be stored with the personal effects of the inmate for safekeeping. Prison staff should be particularly careful to handle belongings of this sensitive

nature with due respect and consideration and should allow the inmate to place the headdress in the personal effects container.

### 3.(b)(ii) Ceremonial Accouterments

In order to prevent possible injury to others, the wearing of a ceremonial accouterment that is a potentially harmful instrument is prohibited.

### **3.(c) Diet**

Where an inmate indicates a requirement for a special diet in order to observe the dietary laws and practices established by the inmate's religion, the prison warden shall, to the extent reasonable or practicable, ensure that such a diet is accommodated.

An incarcerated person has the right to observe dietary laws and practices established by his/her religion, if the religion meets the criteria provided for recognition and established through standards.

#### *Discussion:*

Recognised religious dietary practices should be accommodated where practiced. Religious diets should be in accordance with the general provisioning of the inmate population.

### **3.(d) Provision of Worship Space**

Each prison shall identify and equip a space appropriate to, and sufficient for, the conduct of services or worship, observation or meditation by adherents of all religions, faiths or beliefs.

## **4. Medical Rights**

### **4.(a) Protection Against Harmful Medical Procedures**

#### 4.(a)(i) General

All examinations, treatments and procedures affected by informed consent standards in the community are likewise to be observed for inmate care. In the case of minors, the informed consent of a parent, guardian or legal custodian applies where required by law.

### **4.(b) Substance Testing**

#### 4.(b)(i) Voluntary

Any substance testing will be done on a voluntary basis. Inmates accepting a temporary absence with a condition to submit to such a test upon request, are considered to have given their consent upon signing the temporary absence permit.

#### 4.(b)(ii) Refusal

Where pre-consent has been obtained from the inmate (i.e. temporary absence or parole condition or program participation agreement), refusal to provide a sample for analysis may be a violation of the release or program conditions and thus resulting in grounds for revocation or removal.

Where no pre-consent has been obtained and an inmate refuses to submit to a request to provide a sample for analysis, the refusal, in and of itself, is not grounds for disciplinary action.

#### **4.(c) Private Clinicians Visiting Inmates**

An inmate in a prison may be visited and interviewed by a private medical, psychiatric, or psychological clinician who is not on staff or otherwise retained by the prison's service.

#### **4.(d) Inmate Fasting**

##### 4.(d)(i) Definition

A "fast" is defined as a complete and voluntary abstinence from nourishment, by an inmate acting on the basis of unimpaired and rational judgment concerning the consequences of such action.

##### 4.(d)(ii) Right to Fast

Everyone is guaranteed "the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. Furthermore, everyone has the right not to be subjected to any cruel and unusual treatment or punishment. These rights are subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."

One cannot treat a person against his/her will, other than under court order and the requirement of consent is an over-riding consideration.

One cannot feed against the will of a person, but as a precautionary measure, the most that can be done is to place food and water available to the person and ensure the person is made aware of the consequences of his/her action.

Even though prison staff are charged with providing necessities of life and the safekeeping of inmates within the prison, inmates do have the right to fast, even to the point of their own death.

Where the inmate is:

- (a) of the age at which a person may consent to his/her own medical treatment,
- (b) mentally competent, and
- (c) conscious,

staff shall not interfere with an inmate's exercise of the right to fast.

#### ***4.(e) Personal Hygiene***

Inmates shall be permitted freedom in personal grooming insofar as their appearance and hygiene do not conflict with institutional requirements or other government regulations pertaining to safety and sanitation.

Hot and cold water shall be made available for the purposes of personal hygiene, including baths and/or showers, on a daily basis.

### **5. Accommodation**

#### ***5.(a) General***

Each inmate shall be provided with a personal living area that maximizes personal privacy without compromising the safety and security of the institution.

*Discussion:*

The right to personal privacy is perhaps the most compromised ‘freedom’ in a prison. Even within the current limits imposed by physical plant, attempts to preserve the individuality of the inmate and to maximize the inmate’s right to personal privacy should be made.

The prison service shall provide clearly separated living quarters for:

- (i) Male residents in containment
- (ii) Male residents in remand or lockup status
- (iii) Female residents in containment
- (iv) Female residents in remand or lockup status

*Discussion:*

Housing the sexes separately does not necessarily preclude a co-correctional facility. Male and female residents may conceivably be contained within the same building, but shall be housed separately and apart within the structure.

Staff members of one sex shall be permitted to work in the areas of an institution occupied by members of the opposite sex only to the degree that human privacy and dignity are not compromised.

*Discussion:*

In most instances, policy requires male officers in male living units and female officers inside female living units. However, there are some physical plant configurations which would allow officers of different sexes commonly working in living units of the opposite sex without compromising human

dignity and privacy. The policy allows for staff members of different sexes to serve in such capacities as teachers, doctors, support personnel, nurses, administrators, etc.

#### ***5.(b) Inmates in Separate Living Units***

Inmates placed in separate living units because of special needs or circumstances shall retain all customary and specified rights and privileges of inmates in the general population.

##### *Discussion:*

Inmates in special segregation are there, not due to infractions of institutional rules, but due to their unique status within the institution. Therefore, unless it can be demonstrated that to continue their customary rights and privileges would clearly endanger them or others, their rights and privileges shall continue unimpeded.

#### ***5.(c) Privacy and Electronic Surveillance***

Where electronic surveillance is used, it shall only be used in hallways, corridors, day rooms, lounges or at points in the security perimeter.

##### *Discussion:*

A monitoring system should be a means of control and protection of life rather than punishment, and the most humane methods of obtaining the required level of security shall be utilised. Any system of monitoring resident activities must place maximum emphasis on human dignity and the privacy of the person whom it affects.

### **6. Searches**

Subsequent to being searched upon admission, a search of the person of an inmate and/or an inmate's possessions shall only be conducted where:

- (a) the director so authorised; or
- (b) a staff member has reasonable and probable grounds to believe that an inmate is in possession of drugs, weapons, or any other contraband item which may threaten the management, operation, discipline or security of the prison.

##### *Discussion:*

All searches of the person or possessions of an inmate shall be conducted so as to guard and preserve the integrity and dignity of the inmate.

### **7. Grievance Procedure**

There shall be a procedure for fairly and expeditiously resolving offenders' grievances on matters within the jurisdiction of the commissioner.

Every offender shall have complete access to the offender grievance procedure without negative consequences.

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## IV SECURITY

### PART ONE: UN GUIDELINES

#### A. USE OF FORCE POLICY

##### 1. Guidelines for the Use of Force and Physical Restraint

###### *1.(a) General*

*Standard Minimum Rules for the Treatment of Prisoners*<sup>1</sup>

###### *Rule 33*

Instruments of restraint, such as handcuffs, chains, irons and straitjackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:

- (i) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority
- (ii) On medical grounds by direction of the medical officer
- (iii) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring him/herself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority

###### *Rule 34*

The patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer time than is strictly necessary.

###### *Rule 54*

1. Officers of the institutions shall not, in their relations with the prisoners, use force except in self-defense or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Officers who have

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<sup>1</sup> First United Nations Congress on the Prevention of Crime and the Treatment of Offenders Geneva 1955 and approved by the Economic and Social Council Resolution 663 C of 31 July 1957 and 2076 of 13 May 1977.

recourse to force must use no more than is strictly necessary and must report the incident immediately to the director of the institution.

3. Except in special circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should under no circumstances be provided with arms unless they have been trained in their use.

*Code of Conduct for Law Enforcement Officials*<sup>2</sup>

*Article 33*

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duties.

*Commentary:*

This provision emphasises that the use of force by law enforcement officials should be exceptional. While it implies that law enforcement officials may be authorised to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.

National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorise the use of force, which is disproportionate to the legitimate objective to be achieved.

The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardises the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.

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<sup>2</sup> General Assembly Resolution 341169 of 17 December 1979.

*Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*<sup>3</sup>

*Principle 1*

Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials. In developing such rules and regulations, governments and law enforcement agencies shall keep the ethical issues associated with the use of force and firearms constantly under review.

*Principle 2*

Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons. For the same purpose, it should also be possible for law enforcement officials to be equipped with self-defense equipment such as shields, helmets, bullet-proof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind.

*Principle 3*

The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimise the risk of endangering uninvolved persons. The use of such weapons should be carefully controlled.

*Principle 4*

Law enforcement officials, in carrying out their duty, shall as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

*Principle 5*

Whenever the lawful use of force and firearms arises, officials shall:

- (a) exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved; and

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<sup>3</sup> Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba 27 August to 7 September 1990.

- (b) minimise damage and injury, and respect and preserve human life.

*Principle 6*

Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with Principle 22.

*Principle 7*

Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.

*Principle 8*

Exceptional circumstances such as internal political instability or any other public emergency, may not be invoked to justify any departure from these basic principles.

*Principle 9*

Law enforcement officials shall not use firearms against persons except in self-defense or defense of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his/her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

*Principle 11*

Rules and regulations on the use of firearms by law enforcement officials should include guidelines that:

- (a) specify the circumstances under which law enforcement officials are authorised to carry firearms and prescribe the use of firearms and ammunition permitted;
- (b) ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;
- (c) prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;
- (d) regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearm and ammunition issued to them;

(e) provide for warnings to be given, if appropriate, when firearms are to be discharged; and

(f) provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duties.

*Principle 15*

Law enforcement officials, in their relations with persons in custody or detention, shall not use force except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.

*Principle 16*

Law enforcement officials, in their relations with persons in custody or detention, shall not use force except in self-defense or in the defense of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger referred to in Principle 9.

*Principle 17*

The preceding principles are without prejudice to the rights, duties and responsibilities of prison officials as set out in the Standard Minimum Rules for the Treatment of Prisoners, particularly Rules 33, 34 and 54.

***1.(b) Reporting and Review Procedures***

*Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*<sup>4</sup>

*Principle 22*

Governments and law enforcement agencies shall establish effective reporting and review procedures for all incidents referred to in Principles 6 and 11.1. For incidents reported pursuant to these principles, governments and law enforcement agencies shall ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and control.

Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use

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<sup>4</sup> *Supra*, note

of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.

Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic Principles, refuse to carry out an order to use force and firearms, or who report such use by other officials.

*Principle 26*

Obedience to superior orders shall be no defense if law enforcement officials knew that an order to use force and firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility also rests on the superiors who gave the unlawful orders.

***1.(c) Legal Rights of Those Affected by the Use of Force and Firearms***

*Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*<sup>5</sup>

*Principle 23*

Persons affected by the use of force and firearms or their legal representatives, shall have access to an independent process, including a judicial process. In the event of the death of such persons, this provision shall apply to their dependants accordingly.

***1.(d) Juveniles and the Use of Force***

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>6</sup>

*Rule 63*

Recourse to instruments of restraint and to force for any purpose should be prohibited, except as set forth in Rule 64 below.

*Rule 64*

Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorised and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the

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<sup>5</sup> *Supra*, note

<sup>6</sup> General Assembly Resolution 451113 of 14 December 1990.

shortest possible period of time. By order of the director of the administration, such instruments might be resorted to in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the director should at once consult medical and other relevant personnel and report to the higher administrative authority. The carrying and use of weapons by personnel should be prohibited in any facility where juveniles are detained.

## 2. Training of Prison Officers

### *Standard of Minimum Rules for the Treatment of Prisoners*<sup>7</sup>

#### *Rule 2*

Prison officers shall be given special physical training to enable them to restrain aggressive prisoners.

### *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*<sup>8</sup>

#### *Principle 19*

Governments and law enforcement agencies shall ensure that all law enforcement officials are provided with training and are tested in accordance with appropriate proficiency standards in the use of force. Those law enforcement officials who are required to carry firearms, should be authorised to do so only upon completion of special training in their use.

#### *Principle 20*

In the training of law enforcement officials, governments and law enforcement agencies shall give special attention to issues of police ethics and human rights, especially in the investigative process, to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd behaviour, and the methods of persuasion, negotiation and mediation, as well as to technical means, with a view to limiting the use of force and firearms. Law enforcement agencies should review their training programs and operational procedures in light of particular incidents.

#### *Principle 21*

Governments and law enforcement agencies shall make stress counselling available to law enforcement officials who are involved in situations where force and firearms are used.

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<sup>7</sup> *Supra*, note

<sup>8</sup> *Supra*, note

### 3. Procedure in Application of Force

#### *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*<sup>9</sup>

In the circumstances provided for under Principle 9, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms. This shall be done with sufficient time for the warning to be observed unless to do so would unduly place the law enforcement officials at risk, would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.

## B. SECURITY LEVELS

#### *Standard of Minimum Rules for the Treatment of Prisoners*<sup>10</sup>

##### *Rule 63*

2. Institutions need not provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different groups. Open institutions, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to rehabilitation for carefully selected prisoners.

## C. REMOVAL OF PRISONERS

see also I ADMINISTRATION

#### *Standard Minimum Rules for the Treatment of Prisoners*<sup>11</sup>

##### *Rule 45*

1. When the prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible. Proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.

2. The transport of prisoners in conveyance with inadequate ventilation or light or in any way that would subject them to unnecessary physical hardship shall be prohibited.

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<sup>9</sup> *Supra*, note

<sup>10</sup> *Supra*, note

<sup>11</sup> *Supra*, note

3. The transport of prisoners shall be carried out at the expense of the administration. Equal conditions shall be obtained for all.

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>12</sup>

*Rule 26*

The transport of juveniles should be carried out at the expense of the administration in conveyances with adequate ventilation and light, in conditions that should in no way subject them to hardship or indignity. Juveniles should not be transferred from one facility to another arbitrarily.

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<sup>12</sup> *Supra*, note

## **PART TWO: PROPOSED PRISON POLICY**

### **A. USE OF FORCE**

#### **1. Definition**

Use of force for the purposes of this policy means the application of physical restraint in order to control inmates, other persons, and situations.

#### **2. Authorisation for the Use of Force**

A prison officer is justified in using force and is protected from criminal and civil liability when the officer, in good faith:

- (a) acts reasonably and uses only the necessary amount of force called for in the particular circumstance; and
- (b) uses force in the performance of the duties as an employee of the prison service.

A prison officer is criminally responsible for any excessive use of force. The individual officer and the prison service may also be civilly liable for any excesses in the use of force.

The degree of force used shall be limited to minimal proportions for effective control and its application shall be discontinued at the earliest reasonable opportunity.

Force likely to cause grievous bodily harm or death may be used only in cases where it is reasonable to believe there exists a serious counter-threat of serious bodily harm or death.

Where the prison warden has reasonable and probable grounds to believe the force used was in excess of that which was required, the case shall be referred to the local police detachment and crown counsel.

Where the prison warden has determined that an officer used force excessively or inappropriately, or an officer neglected to prevent the excessive or inappropriate use of force by another officer, disciplinary action shall be taken.

#### **3. Treatment of Juveniles**

Physical force in the case of juveniles shall only be used in instances of justifiable self-protection, protection of others, prevention of property damage, prevention of escapes, and in accordance with appropriate statutory authority. Only the minimal force shall be employed.

*Discussion:*

The application of force shall be restricted to situations where all means of reasoning or verbal control have proven ineffective and restraint or apprehension is necessary. Sometimes youths lose control over their actions and become violent. In such instances, they should be brought under control.

All cases of physical force and/or physical restraint shall be applied within the constraints of the criminal code of the state and shall be reported in writing, with the date and signature of the reporting staff member. The report shall be placed in the youth's case record and reviewed by an appropriately designated official of the detention facility.

*Discussion:*

It is in the interest of both program staff and residents that the use of force and/or physical restraint be carefully monitored. All details related to any such incidents should be carefully documented. Any injuries must be recorded fully and treated promptly.

**4. Liability**

A prison officer is justified in using force when he/she in good faith:

- (a) acts reasonably and uses only the necessary amount of force called for in the particular circumstance; and
- (b) the force is used in the performance of duties as a corrections officer.

The officer may be liable for any excessive use of force.

**5. Use of Good Judgement in the Application of Force**

An officer is expected to use good judgement when determining which circumstances warrant the use of force.

The amount of force to be used is dependent on the particular circumstances, the reasonable judgement of the individual officer, and the direction afforded by senior officers. Various options are available, but circumstances will dictate the type of force ultimately selected. Failure to respond swiftly and effectively may contribute to the deterioration or worsening of the situation.

**6. Conditions Warranting Application of Force**

A correctional officer may use force when there are reasonable grounds to believe its application will:

- (a) prevent the commission or continuation of an offence (i.e. escape, assault on staff or inmate),
- (b) maintain or restore the good order of the institution,
- (c) apprehend an offender following escape, or
- (d) assist another officer in any of the above.

Force should only be used as a last resort, when all other reasonable means of control have been exhausted and/or proven ineffective.

### **7. Degree of Force**

The degree of force used shall be limited to minimal proportions to affect control. Its application shall be discontinued at the earliest reasonable opportunity.

Force likely to cause grievous bodily harm or death may be used only in cases where it is reasonable to believe there exists a serious counter-threat of serious bodily harm or death.

### **8. Use of Force Resulting in an Injury**

Any person against whom force has been used and who appears to have suffered injury shall be:

- (a) examined by a health care professional, and
- (b) photographed by prison staff as soon after the incident as practical.

### **9. Report and Notification**

All serious or unusual incidents involving the use of force shall be reported immediately to the prison warden. Prison officers involved in or witnessing the incident shall submit a written report. When it has been determined that an officer used force excessively or inappropriately or an officer neglected to prevent the excessive or inappropriate use of force by another officer, disciplinary action shall be taken.

### **10. Physical Force and Restraint Equipment**

Physical restraint is the use of personal force. Restraint equipment may be used to fortify and complement personal force by constraining the inmate in a less harmful and more effective manner.

Notification of incidents requiring restraint equipment for medical purposes (e.g. prevention self-inflicted injury), shall be given to the appropriate health care professional without delay.

Restraint equipment shall not be used as a means of punishment.

**10.(a) Allowable Restraint Items**

Allowable restraint equipment and weapons include:

1. Physical restraint equipment:
  - (a) Handcuffs
  - (b) Leg irons
  - (c) Belly chains
  - (d) Restraint boards
2. Riot equipment:
  - (a) Batons
  - (b) Shields
  - (c) Helmets and visors
  - (d) Protective clothing:
    - (i) Groin protectors
    - (ii) Boots
    - (iii) Gloves
    - (iv) Fire retardant overalls
    - (v) Shin pads
    - (vi) Disposable handcuffs
  - (e) Firehoses
3. Body armour
4. Chemical agents:
  - (a) C.N. gas
  - (b) Oleoresin capsicum
  - (c) Mace
5. Dogs
6. Firearms

Riot equipment may be used in subduing rebellious inmates when personal force, complemented by restraint equipment, is inadequate to contain, disperse and prevent the escalation of violence or serious property damage.

Extreme care must be exercised to prevent excessive injury.

Riot equipment shall only be used by officers assigned to tactical squads and shall only be used when authorised.

**10.(b) Youth- Restraint Equipment**

Handcuffs shall be the only mechanical restraint employed in youth correctional facilities, and shall be available within the centre for emergency purposes and for utilisation during transportation of youths between programs. Any use of handcuffs other than for the transportation of youths shall be immediately reported in writing to the officer in charge.

*Discussion:*

The standard assumes that control and discipline can be maintained within the program without the use of mechanical restraints, except in emergency situations. Due to the heightened likelihood of escape attempts during transportation, the regular use of handcuffs is permissible.

No firearms shall be deployed on the premises of a youth facility.

*Discussion:*

Firearms are not a security option in youth facility. Staff members are not to bring their own weapons on or near the grounds of a youth facility.

Each youth correctional facility shall develop and implement policies and procedures to address the presence of armed police and sheriffs at the centre. The policy and procedures should take into consideration:

- (a) the general prohibition against the presence of firearms in the centre;
- (b) the various types and purposes of visits by armed officers, as well as the areas of the centre which may be visited;
- (c) the need in some circumstances to not unnecessarily inconvenience visiting officers; and
- (d) the safety and security of youths, staff and visiting officers.

*Discussion:*

The intent of the standard is to uphold the safety and security of the centre while recognising that in some circumstances, the presence of visiting armed officers does not compromise the centre's security or the general prohibition against firearms as a security option for youth programs.

**10.(c) Storage**

Appropriate orders for the storage and security of physical restraint and riot equipment shall be established and enforced.

There shall be a clearly visible sign on the door to the storage facility indicating there are chemical agents in the building in the event of fire.

Keys to the storage facility shall be kept to a minimum, controlled through a separate key register and, when not in use, retained or secured by the officer in charge of the shift.

**10.(d) Local Inventory**

An inventory system of restraint equipment shall be kept, reviewed and updated annually. A record of inventory shall be maintained to provide the following information:

- (i) The date physical restraint, riot equipment and chemical agents were obtained and the source of supply
- (ii) Description of physical restraint, riot equipment, and chemical agents (including serial numbers, make, model, etc.)
- (iii) Quantity of chemical agents on hand
- (iv) Record of chemical agents purchased or received during any fiscal year
- (v) Record of chemical agents expended during any fiscal year
- (vi) Expiry date of chemical agents

**10.(e) Register**

A register indicating the deployment of physical restraints, riot equipment, and chemical agents, for duty or instructional purposes shall be kept, identifying:

1. Time and date of issue
2. Type and number of items issued
3. Purpose
4. Receiver's name

Upon return of the items issued, the register shall indicate:

1. Time and date of return
2. Type and number of items returned
3. Receiver's name

**10.(f) Loss or Theft**

The loss or theft of physical restraints, riot equipment or chemical agents shall be reported immediately.

## **B. SECURITY CLASSIFICATION OF FILES**

### **1. Inmate File Classification**

The following sets out the criteria whereby inmates are identified in one or more of the following security categories:

- (i) Escape risk
- (ii) Violent
- (iii) Suicidal
- (iv) Mental
- (v) Protective custody
- (vi) Special alert

### **2. Escape Risk**

An inmate is judged as likely to escape because:

1. He/she has escaped or attempted to escape during present and previous sentences.
2. He/she has committed further offences while on escape, which have led to convictions.
3. Attitude and behaviour have not noticeably improved since previous escapes.
4. Seriousness of offence (maximum penalty over ten years) particularly as it pertains to remanded prisoners.
5. In the case of a sentenced prisoner, there are outstanding charges that are more serious than those for which he/she is serving sentence.
6. The inmate is a citizen of a foreign country and there are outstanding charges in his/her native country.
7. The inmate is a citizen of a foreign country and immigration advises that escape will unduly complicate deportation.

### **3. Violent**

An inmate is judged as violent because:

1. He/she has several previous convictions for violent offences.
2. Criminal justice information links him/her directly to violent and destructive behaviour.

3. Professional opinion indicates that he/she is unpredictable, likely to assault.
4. The inmate's violent or aggressive behaviour makes him/her a risk to staff or other prisoners.

#### **4. Suicidal**

An inmate is judged as a suicide risk because:

1. The inmate has a history of attempted suicide as per criminal justice sources.
2. Police/sheriffs indicate an attempted suicide while in their custody.
3. A medical officer (admitting), psychiatrist, or clinical psychologist has assessed him/her as a suicide risk.
4. There is firsthand information (e.g. from prisoner and/or family member).

#### **5. Mental Health**

On advice from a medical doctor (admitting), psychiatrist, or clinical psychologist, an inmate is assessed as needing special status as a result of mental health concerns because:

1. The inmate has a background of instability, suggesting that he/she may be violent.
2. The inmate has a history of social or learning deficiencies.
3. The inmate is emotionally disturbed.
4. The inmate has a mental condition that requires hospital care.

#### **6. Protective Custody**

Inmates with special needs must be identified and accommodated in a manner which ensures their needs for safe custody as well as their rights and privileges are met. The protective custody alert will be formalised in concert with the inmate.

Notwithstanding the above, the prison service reserves the right to segregate inmates in cases when criminal justice information suggests that life and safety are in danger.

Protective custody will be discussed with, and may be offered to, all inmates who are:

- (a) awaiting trial or sentence on sex related offences, or
- (b) past or present employees of the criminal justice system.

Inmates will be given an opportunity to waive protective custody on subsequent admissions.

### **7. Special Alert**

Those inmates who are borderline in any of the previous categories and as such are at potential risk, will be labelled special alert because:

- (a) these cases may or may not have a label attached to their files, and
- (b) this category will alert staff to those inmates who may become a risk if circumstances change.

### **8. Authority for Applying Security Alerts**

Any classification officer, officer in charge of a unit, or officer in charge of records, at any time during the remand or sentence into custody, may apply the criteria to determine whether or not a prisoner should have a security alert applied or removed. Prior to removing a security alert, the officer who applied the alert shall be consulted in order to determine whether or not the alert is still required.

### **9. File Labels**

When a prisoner is designated in one of the security alert categories, a clearly identifiable label is applied to the outside front of the file folder. This label is to be dated with the date corresponding with the file entry, justifying the application of the security alert. The warrant file, progress file, medical file and warden's file are to be labelled.

The only other label that may be affixed to a file is a label identifying persons serving sentences of imprisonment plus a term of probation following the term of imprisonment at expiration.

The use of a single colour coded label will alert staff to review the file closely, without giving inmates the reason for the alert.

### **10. Review of Labelled Files**

All prisoner files having security alerts are to be reviewed thoroughly by either the classification officer, the officer in charge of a unit, or the officer in charge of records, as the case may be, prior to the inmate's transfer. This shall determine that the transfer is consistent with the legal status of the prisoner and consistent with the security alert status.

All files having security alerts are to be reviewed thoroughly by the person in authority at the receiving centre to determine if the security alert is required in that new environment.

## **C. CENTRAL CONTROL**

### **1. General Comments**

All prisons shall have a designated central control. A central control facility is essential for integrating various security and communications functions.

The control centre in a secure institution shall be staffed twenty-four hours a day and access to it shall be limited. In open settings, staffing shall be dictated as by circumstances.

The control centre is responsible for:

- (i) Inmate counts
- (ii) Key control
- (iii) Coordination of the prison's internal and perimeter security network
- (iv) Communications for the prison, monitoring operation of firearms, public address, radio, surveillance alarms, perimeter lighting, telephone and other mechanical and electrical systems
- (v) Monitoring and recording of all visits (including visits under security)

## **D. INFORMATION RECORDING AND DISSEMINATION**

### **1. Exchange of Critical Information**

Local policies shall be in place to provide for the passage of critical information from one shift to another. Strategies used to achieve this goal may include:

- (i) Overlapping shifts by supervisors
- (ii) Staggered start and finish times for line staff
- (iii) Logbook entries
- (iv) Critical incident/information files

### **2. Information Recording**

Each prison, or living unit within a larger centre, shall maintain a system of recording the following information:

#### **1. Routine information:**

- (a) Staff on duty and changes
- (b) Counts- formal and informal
- (c) Movement of inmates for any reason including:
  - (i) Programming
  - (ii) Count

- (iii) Medical
- (d) Visits to unit, including:
  - (i) Inmate visitors
  - (ii) Prison service officials
  - (iii) Contractors
  - (iv) Maintenance personnel
  - (v) Touring groups

## 2. Critical information:

- (a) Security alerts:
  - (i) Highlighting security deficiencies
  - (ii) Summary of problem
  - (iii) Action taken
- (b) Unusual occurrences and unit atmosphere
- (c) Any other information that may impact on:
  - (i) Unit security
  - (ii) Staff safety
  - (iii) Inmate safety

## 3. Supervisor's Responsibilities

Shift supervisors shall ensure that all staff are briefed on any situation or condition that may affect the safety/security of the unit.

## 4. Staff Responsibilities

All staff are responsible for reading the critical incident record. Staff shall initial the recorded information certifying that they have read it.

The prison warden or designate shall periodically review the comments and ensure that staff have read and initialled the entries.

## 5. Communications Systems

At the beginning of each shift, the officer in charge of the shift shall ensure that security communication systems are tested, any malfunctions are noted and immediate steps are taken to rectify malfunctions and provide temporary alternate means of communication pending repair of the regular system.

## 6. Logbook

A unit logbook shall be maintained, ensuring a record of all incidents, counts, cleaning checks, visitors, etc. are properly logged. Each unit check shall be logged when it occurs, with the time and signature of the officer taking the check and indicating his/her

observations during the check. Recreation and program area checks shall be logged indicating who was on patrol with time in and time out being recorded.

## **E. POPULATION COUNTS**

### **1. General Comments**

The purpose of this policy is to identify the procedures necessary to conduct both formal and informal counts of inmates and the staff responsible for carrying out these procedures.

Counts should be scheduled so that they do not conflict with activity programs and normal operating procedures. The count should be conducted by the staff and should include an accounting of all inmates housed in or otherwise assigned to the facility area in which the count is conducted. The purpose of counts is to ensure that inmates are alive and well, and in a place where they are authorised to be.

### **2. Formal Population Counts**

A formal count is defined as a count based on actual sight of the inmate's flesh. During such counts there shall be no inmate movement.

On all formal counts, inmates are to be in their assigned residence. They must remain in the residence until the count clear announcement is made.

All formal counts shall be double counts with two officers signing the count slip.

Work counts will ensure inmates are following policies and rules as well as allowing the staff to identify which inmates are in the residence.

All counts shall be done as follows:

1. Count shall be a double count by two officers going together.
2. If there is any indication the count is not correct, a second count shall be done with the officers starting at opposite areas of the first count.
3. Both officers shall sign the count sheet as having taken the count. The supervisor shall initial the count slip as having been totalled correctly.

Any inmate not in the unit or place of work shall be reported as missing. All inmates assigned to the unit shall remain in the unit.

When looking for an inmate, it is imperative to do a physical check of the unit.

A formal inmate population count shall be conducted at completion of each regularly scheduled shift, and prior to and immediately following all mass movements of inmate groups.

When there is a mass movement of inmates from one part of the centre to another for such purposes as meals, films, work assignments, etc., a count shall also be conducted.

The results of that count shall be recorded in writing and shall include:

- (i) Date and time of count
- (ii) Facility area in which the count was conducted
- (iii) Number of inmates assigned to the facility area
- (iv) Number of inmates accounted for
- (v) Names and signatures of staff members conducting the count

### ***2.(a) Working Model of Formal Counts Times***

0300-0400 hours- Cell count carried out by two staff members in each unit, including segregation, simultaneously. The results of the count are to be centrally reported. There is no inmate movement until the count is verified correct by a senior officer and both staff members have signed the count slips.

0600-0630 hours- Staff member assigned to each unit including the annex, dissociation and segregation, carries out a cell count and reports the results to administration control for verification. There is no inmate movement until the count is verified. Count slips are to be submitted to administration control prior to the end of the shift at 0700 hours.

1150 hours- All inmates are counted in cells in respective units by unit staff. Inmates required at their work location during the period of this count may be counted at their respective work location by the staff member responsible for that area. Counts from each area must be reported centrally.

1630 hours- Formal lock up count carried out by unit staff. Each inmate shall be counted in the assigned cell/unit including segregation. Counts for each area must be reported centrally.

2300 hours- Formal lock up count carried out by unit staff. Each inmate shall be counted in the assigned cell/unit segregation. No staff member shall leave the institution before the 2300 hour count has been verified.

### **3. Informal Population Counts**

An informal count shall be taken of inmates at various and unscheduled times and under situations not included in the formal count.

#### ***3.(a) Working Model of Informal Count Times***

- (i) Each workday in the morning (0800 hours) and afternoon (1315 hours) as soon as possible after inmates report to work
- (ii) By the evening and the morning shifts at least once per hour other than formal count times
- (iii) During the work period at frequent irregular intervals
- (iv) By the staff member taking over the unit at 2315 hours as a means of confirming the formal count taken at 2300 hours by the evening shift
- (v) At any other time as directed by a senior officer if an inmate is believed to be missing

Formal and informal residence checks shall be made periodically during all shifts to ensure inmate safety and security.

Additional rounds may be carried out at any time if circumstances indicate a need; however, a minimum of five rounds including two formal counts must be completed. Rounds should not always be done in the same sequence but in opposite or random order to avoid becoming too predictable.

## **F. ADMINISTRATIVE SEGREGATION**

### **1. Purpose**

The purpose of administrative segregation is to keep an inmate from associating with the general inmate population.

### **2. Duration**

When an inmate is in administrative segregation in a prison, the service shall endeavour to return the inmate to the general inmate population, either of that penitentiary or of another penitentiary, at the earliest appropriate time.

### **3. Grounds for Confining Inmate in Administrative Segregation**

The warden may order that an inmate be confined in administrative segregation if the institutional head believes on reasonable grounds that:

- (a) the inmate has acted, has attempted or intends to act in a manner that jeopardises the security of the penitentiary or the safety of any person, (b) the

continued presence of the inmate in the general inmate population would jeopardise the security of the penitentiary or the safety of any person,(c) the continued presence of the inmate in the general inmate population would interfere with an investigation that could lead to a criminal charge, or(d) the continued presence of the inmate in the general inmate population would jeopardise the inmate's own safety, and the institutional head is satisfied that there is no reasonable alternative to administrative segregation.

#### **4. Considerations Governing Release**

All recommendations to the institutional head and all decisions by the warden to release or not to release an inmate from administrative segregation shall be based on the considerations set out above.

#### **5. Case to be Reviewed**

When an inmate is involuntarily confined in administrative segregation, a person or persons designated by the warden shall:

(a) conduct, at the prescribed time and in the prescribed manner, a hearing to review the inmate's case, and(b) conduct, at the prescribed time and in the prescribed manner, further recommendation to the warden, after such review, whether or not the inmate should be released from administrative segregation.

#### **6. Presence of Inmate**

The hearing shall be conducted with the inmate present unless:

- (a) the inmate is voluntarily absent,
- (b) the person or persons conducting the hearing believe on reasonable grounds that the inmate's presence would jeopardise the safety of any person present at the hearing, or
- (c) the inmate seriously disrupts the hearing.

#### **7. When Warden Must Meet with Inmate**

When the institutional head does not intend to accept a recommendation made to release an inmate from administrative segregation, the prison warden shall, as soon as is practicable, meet with the inmate to:

- (a) explain the reasons for not intending to accept the recommendation, and
- (b) give the inmate an opportunity to make oral or written representations.

## 8. Inmate Request Denied

When an inmate requests to be placed in, or continue in, administrative segregation and the warden does not intend to grant the request, he/she shall as soon as is practicable, meet with the inmate to:

- (a) explain the reasons for not intending to grant the request, and
- (b) give the inmate an opportunity to make an oral or written representation.

## 9. Visits to Inmate

An inmate in administrative segregation shall be visited at least once every day by a registered health care professional.

The warden or designate shall visit the administrative segregation area at least once every day and meet with individual inmates on request.

## 10. Rights of Inmate

An inmate in administrative segregation shall enjoy the same rights, privileges and conditions of confinement as the general inmate population, except for those rights, privileges, and conditions that:

- (a) can only be enjoyed in association with other inmates; or
- (b) cannot reasonably be given owing to:
  - (i) limitations specific to the administrative segregation area, or
  - (ii) security requirements.

# G. SUPERVISION OF INMATES

## 1. Living Quarters

The prison service shall provide clearly separated living quarters for:

- (i) Male sentenced inmates
- (ii) Male unsentenced inmates
- (iii) Female sentenced inmates
- (iv) Female unsentenced inmates

### *Discussion:*

Housing the sexes separately does not necessarily preclude a co-correctional institution. Male and female inmates can be contained within the same building, but shall be housed separately and apart within the structure.

It is desirable to house sentenced and unsentenced inmates separately. However, unsentenced inmates may be allowed to participate in work, education and recreation programs should they request to do so.

## **2. Monitoring Systems**

Where electronic surveillance is used, it shall only be used in hallways, corridors, dayrooms, lounges and such other areas common to inmates, at points in the security perimeter, and for monitoring inmates segregated for close observation.

### *Discussion:*

Monitoring systems should be a means of control and the protection of life rather than punishment, and the most humane methods of obtaining the required level of security shall be utilised. Any system of monitoring inmate activities must place maximum emphasis upon human dignity and privacy of the persons whom it affects.

Where electronic surveillance is used to monitor inmates in close observation, only authorised staff members shall locate receivers so as to permit access.

### *Discussion:*

In ensuring the most humane use of electronic surveillance, it is vital that casual access not be permitted. Screens and audio receivers shall be placed in areas with extremely limited access to staff members.

## **3. Officer Posts**

Correctional officer posts shall be located so as to permit officers to hear and respond to indications of inmate needs.

### *Discussion:*

It is necessary that staff be located as close as possible to inmate living areas in order to be aware of what is happening within the unit, to maintain security and control, and to respond to inmate needs.

## **4. Program Monitoring**

A staff member responsible for supervising a program of inmate activity shall monitor and record in writing the performance and behaviour of inmates assigned to that program.

*Discussion:*

Records should be kept on inmate performance in order to facilitate program planning and community re-entry.

### **5. Prohibition of Monitoring Duties to Inmates**

The custody and control of inmates shall not be delegated to other inmates of the prison.

### **6. Monitoring by Different Sexes**

In non-emergency situations, staff members of one sex shall be permitted to work in the areas of an institution occupied by members of the opposite sex only to the degree that human privacy and dignity are not compromised.

*Discussion:*

In most instances, the standard requires male officers in male living units and female officers inside female living units. However, there are some physical plant configurations which would allow officers of different sexes to commonly work in living units of the opposite sex without compromising human dignity and privacy.

The standard allows for staff members of different sexes to serve in such capacities as teachers, doctors, support personnel, nurses, administrators, etc.

## **H. INSPECTIONS**

### **1. General Comments**

It is imperative that staff be aware of what is happening in their particular area of responsibility. The major emphasis for such knowledge should be the well-being of the inmates under staff care and control. These inspections should be at irregular intervals so as not to form a set and predictable pattern.

### **2. Visual Inspections**

A visual inspection of each individual's cell or dormitory, and the area immediately surrounding each housing unit shall be conducted by correctional centre staff at intervals not to exceed one hour when inmates are confined in their individual housing units.

All bars, windows, locks, walls, floors, ventilation covers, glass panels, access plates, protected screens, doors, emergency alarm systems, and other security facilities shall be subject to a daily visual check for operational wear and inmate tampering. The results of

these inspections shall be noted in the unit log and exception reports shall be submitted in writing to the officer in charge or the director.

### **3. Physical Checks**

On a weekly basis, all bars, windows, locks, walls, floors, ventilation covers, glass panels, access plates, protected screens, doors, emergency alarm systems, and other security facilities, shall be subjected to a rigorous physical examination in order to ensure structural integrity and confirm the results of the daily visual examination. The results of these inspections shall be noted in the unit log, with exception reports being submitted to the officer in charge or the warden.

## **I. SEARCHES**

### **1. Searches of Inmates**

#### ***1.(a) General Comments***

The purpose of the search is to detect and seize contraband objects. All searches of the person or possessions of an inmate shall be conducted so as to guard and preserve the integrity and dignity of the inmate.

#### ***1.(b) Conduct of Search***

Subsequent to being searched upon admission, a search of an inmate and/or the inmate's possessions shall only be conducted when:

- (a) the warden so authorised, or
- (b) a staff member has reasonable and probable grounds to believe that an inmate is in possession of drugs, weapons, or any other contraband item which may threaten the management, operation, discipline or security of the prison.

Searches for contraband shall be conducted with a minimum of disturbance to the inmate's possessions and living area, and shall be recorded in the unit log in writing and signed by the officer conducting the search.

#### ***1.(c) Frisk Search of Inmate***

When a staff member suspects on reasonable grounds that an inmate is carrying contraband or carrying evidence relating to a disciplinary or criminal offence, the staff member may conduct a frisk search of the inmate.

***1.(d) Strip Search of Inmate***

A staff member of the same sex as the inmate may conduct a routine strip search of an inmate. This shall be done without individualised suspicion in the prescribed circumstances such as situations in which the inmate has been in a place where there was a likelihood of access to contraband that is capable of being hidden on or in the body, or when the inmate is entering or leaving a segregation area.

Where a staff member:

- (a) believes on reasonable grounds that an inmate is carrying contraband or carrying evidence relating to a disciplinary or criminal offence, and that a strip search is necessary to find the contraband or evidence, and
- (b) satisfies the institutional head that there are reasonable grounds to so believe,

a staff member of the same sex as the inmate may conduct a strip search of the inmate.

***1.(e) Emergency Search***

Where a staff member:

- (a) believes on reasonable grounds that an inmate is carrying contraband or carrying evidence relating to a disciplinary or criminal offence, and that a strip search is necessary to find the contraband or evidence, and
- (b) believes on reasonable grounds that the delay that would be necessary in order to consult the institutional head or with the gender requirement would result in danger to human life or safety or in loss or destruction of the evidence,

the staff member may conduct the strip search without the approval of the warden or complying with the gender requirement.

***1.(f) Staff Member to Inform Institutional Head***

Where a staff member believes on reasonable grounds that an inmate has ingested contraband or is carrying contraband in a body cavity, the staff member may not seize or attempt to seize that contraband, but shall inform the warden or the officer in charge of the prison. Where the warden or officer in charge is satisfied that there are reasonable grounds to believe that an inmate has ingested contraband or is carrying contraband in a body cavity, he/she may authorise in writing one or more of the following:

- (i) The use of an X-ray machine by a qualified X-ray technician to find the contraband, if the consent of the inmate and of a qualified medical practitioner is obtained
- (ii) The detention of the inmate in a cell without plumbing fixtures, with notice to the prisons medical staff, on the expectation that the contraband will be expelled

***1.(g) Body Cavity Search***

Where the institutional head is satisfied that there are reasonable grounds to believe that an inmate is carrying contraband in a body cavity and that a body cavity search is necessary in order to find or seize the contraband, the institutional head may authorise in writing a body cavity search to be conducted by a qualified medical practitioner, if the inmate's consent is obtained.

***1.(h) Exceptional Power of Search***

Where the warden or officer in charge is satisfied that there are reasonable grounds to believe that:

- (a) there exists, because of contraband, a clear and substantial danger to human life or safety or to the security of the prison, and
- (b) a frisk search or strip search of all the inmates in the prison or any part thereof is necessary in order to seize the contraband and avert the danger,

the warden may authorise in writing such a search be conducted by a staff member of the same sex as the inmate.

***1.(i) Times/Frequency of Searches of Inmate Quarters***

Searches shall be conducted on a regular basis of all common and program areas to which inmates have access.

The schedule of the searches will be determined by the warden and will not, on a regular basis, include the room, cell or property of an inmate. These are subject to search only when there are reasonable and probable grounds to believe the inmate is in possession of contraband, or upon the authority of the warden.

Each officer shall search the living units/cells at least once per month and complete a form verifying the search. Officers shall frisk any inmate any time when he/she has reason to believe contraband could be intercepted.

A new inmate shall conduct a thorough search of each individual cell prior to occupancy. The purpose of this search is to ensure that the assigned area is clear of contraband. Responsibility for contraband objects can then be more clearly allocated. It should be noted that the standard applies to a single cell or room accommodation in a secure setting. The intent of the standard cannot be realised in shared or group accommodation.

## 2. Searches of Visitors

### 2.(a) Purpose

This policy establishes direction with respect to the searching of visitors to prisons, to prevent and control incoming drugs, weapons or any other contraband which might pose a threat to the safety and security of the institution.

### 2.(b) Warning About Searches

At each institution, a conspicuous warning shall be posted at the entrance to the lands and at the entrance to the visiting area, stating that all visitors and vehicles at the institution are subject to being searched.

Visitors entering a prison shall be provided with a “visitor’s guide”, which shall inform them of the types of items which may constitute “contraband”, and, among other things, that they may be subject to a search.

### 2.(c) Definitions

Pat search - a hand-held screening device or the hands of the staff member are run over the clothing of the person being searched. Pockets, folds, etc. may be turned out. Objects in possession of the person may also be searched either manually or with the hand-held screening device.

Skin-search - a visual inspection of a partially or fully unclothed person. This includes visual checks of body cavities.

Body cavity - the rectum or vagina.

Body cavity search - the physical probing of a body cavity, in the prescribed manner.

Frisk search-

- (a) a manual search, or a search by technical means, of the clothed body, in the prescribed manner, and
- (b) a search of:
  - (i) personal possessions, including clothing, that the person may be carrying, and
  - (ii) any coat or jacket that the person has been requested to remove.

Strip search-

- (a) a visual inspection of the naked body, in the prescribed manner, and
- (b) a search of all clothing, things in the clothing and other personal possessions that the person may be carrying.

***2.(d) Persons Subject to Searches***

A staff member may conduct a frisk search of a visitor when the staff member suspects on reasonable grounds that the visitor is carrying contraband or carrying other evidence relating to a disciplinary or criminal offence.

Persons coming onto the grounds of a prison, their vehicles and the articles of property in their possession may be subject to a demand for a search to the degree necessary to ensure institution security and prevent the introduction of contraband.

All searches shall be conducted in a manner and location that is sensitive to the privacy and personal dignity of the person being searched.

***2.(e) Consequences of Discovering Contraband***

Visitors shall be advised of the potential consequences in the event contraband is discovered while a search is being conducted. Those consequences may include:

- (i) Denial of open visits
- (ii) Denial of visit and escort off grounds
- (iii) Detaining visitor until police are contacted and possibly being charged with a criminal offence
- (iv) A temporary or permanent loss of visiting privileges

***2.(f) Refusal to Submit to a Search***

If the visitor refuses to submit to the search, an open visit may be denied. The visitor may be escorted off the grounds or, if facilities allow, a secure visit may be offered.

**2.(f)(i) Withdrawal of Consent**

If, at any time when the search is being conducted, the visitor withdraws consent, the search will be terminated.

**2.(f)(ii) Consequences of a Refusal to Submit to a Search**

Refusal to submit to a search does not in itself constitute grounds for future searches or future denial of visits.

***2.(g) Pat Search***

A staff member of the same gender should generally conduct a pat search. If none is available, the pat search may be conducted by a staff member of the opposite gender, in the presence of a second staff member.

### ***2.(h) Skin Search***

Where reasonable grounds exist to believe that a specific visitor may be in possession of contraband, that visitor may be subject to a skin search in order to be approved for an open visit.

### ***2.(i) Same Gender to Conduct Skin Search***

Skin searches of visitors shall only occur when staff members of the same gender are available to conduct the search. At no time shall a staff member of the opposite gender be involved in the conducting of, or observation of a skin search. Where no staff member of the same gender is available to conduct the skin search, the open visit may be denied.

### ***2.(j) Grounds for Skin Search***

Reasonable grounds for the belief that a visitor may be in possession of contraband must be based upon specific objective facts in conjunction with rational inferences drawn from those facts which are consistent with good judgement and experience.

Factors to be considered include:

- (i) The nature of information received; e.g. date, time, location, persons involved, type of contraband, etc.
- (ii) The reliability of the information; e.g. the identity of the informant, whether the previous information has been valid, etc.
- (iii) The degree of corroboration; e.g. whether the information is consistent with known facts, whether other sources supplied similar information, whether the informant has a reason to provide false information, etc.
- (iv) Other facts contributing to the suspicion; e.g. personal observations, results of searches of either the subject inmate or visitor, history of contraband smuggling attempts by the inmate or visitor, etc.

### ***2.(k) Authorisation to Conduct a Skin Search***

No skin searches shall take place unless:

- (a) the prison warden or designate authorises the search;
- (b) the visitor is informed in writing of the grounds for the search;
- (c) the visitor consents to the search and signs the appropriate consent form; and
- (d) a staff member of the same gender as the visitor is available to conduct the search.

***2.(l) Search of Minors***

Exceptional sensitivity shall be maintained when searching minors, particularly those under 12 years of age. In the case of toddlers and infants, the parent(s) or guardian(s) shall do the check under the direct visual supervision of the officer(s).

***2.(m) Search of Vehicles***

A staff member may, in the prescribed manner, conduct routine searches of vehicles on prison property, without individualised suspicion, in the prescribed circumstances, in which circumstances must be limited to what is reasonably required for security purposes.

A staff member who believes on reasonable grounds that contraband is located in a vehicle on prison property in circumstances constituting an offence may, with prior authorisation from the warden, search the vehicle.

Where a staff member believes on reasonable grounds that the delay is necessary in order to comply with the prior authorisation requirement and would result in danger to human life or safety or the loss or destruction of the contraband, the staff member may search the vehicle without prior authorisation.

***2.(n) Searching Items of Religious Significance***

Particular sensitivity should be used when searching items of religious significance (e.g. turbans, sacred bundles, ceremonial pipes, etc.) Many such items should not be handled by staff, but can be searched by having the visitor handle them while being observed by staff.

***2.(o) Conducting Skin Search Procedures***

The purpose of the skin search is to discover contraband. The order in which the skin search shall be conducted is as follows:

1. The visitor shall be required to remove all articles from pockets. Staff shall inspect all articles.
2. The visitor shall then completely disrobe. Staff shall inspect and seat each article of clothing. Particular attention shall be paid to the seams, cuffs, hatbands, gloves, shoes, linings, pockets, and other likely places for the concealment of contraband.
3. Staff shall:
  - (a) request the visitor run his/her hands through his/her hair;
  - (b) visually check the visitor's mouth;
  - (c) visually inspect the front of the visitor's body and request the visitor to lift breasts or testicles;

- (d) request the visitor turn and visually inspect his/her back;
- (e) request visitor raise arms and visually inspect armpit area;
- (f) request the visitor spread legs and bend forward from the hips and visually inspect body orifices; and
- (g) request the visitor lift each foot and visually inspect the soles of the feet and between the toes.

At no time shall the visitor be left standing uncovered prior to or following the search procedure. The visitor shall be provided with a clean gown (male or female) or underwear (male) to preclude unnecessary embarrassment.

### ***2.(p) Power to Seize***

A staff member may seize contraband, or evidence relating to a disciplinary or criminal offence, found in the course of a search conducted, except a body cavity search or as a result of an X-ray.

A medical practitioner conducting a body cavity search may seize contraband or evidence relating to a disciplinary or criminal offence found in the course of that search.

### **2.(p)(i) Reports Relating to Searches and Seizures**

Reports for searches conducted, and for seizing items in the course of those searches, must be filed where required.

### **3. Searching Staff Members**

A staff member may conduct routine non-intrusive searches or routine frisk searches of other staff members, without individualised suspicion, in the prescribed circumstances, although circumstances must be limited to what is reasonably required for security purposes.

When a staff member believes on reasonable grounds that another staff member is carrying contraband or carrying evidence relating to a criminal offence and that a frisk search or strip search is necessary to find the contraband or evidence, the staff member may detain the other staff member in order to:

- (a) obtain the authorisation of the institutional head to conduct a frisk search or strip search, or
- (b) obtain the services of the police; and

where the staff member satisfies the institutional head that there are reasonable grounds to believe that the other staff member is carrying evidence relating to a criminal offence and that a frisk search or strip search is necessary to find the contraband or evidence, the institutional head may:

- (a) authorise a staff member to conduct a frisk search of the other staff member,
- or(b) authorise a staff member of the same sex as the other to conduct a strip search of that other staff member.

A staff member who is detained for search purposes shall:

- (a) be informed promptly of the reason for the detention, and
- (b) before being searched, be given a reasonable opportunity to retain and instruct counsel without delay and be informed of that right.

## **J. CELL ENTRY AND EXTRACTION**

### **1. General**

The intent of this policy is to establish a standardised approach for the removal of violent or potentially violent inmates from cells or other areas that will maximise the efficiency of the process and minimise the risk of injury to the inmate or staff.

### **2. Establishment of Cell Entry and Extraction Teams**

The prison warden shall develop standing orders that address the creation of cell entry and extraction teams (CEE teams) as an adjunct to, or part of, the prison's established tactical squad.

### **3. Deployment**

CEE teams will only be deployed when all other less forceful means of achieving compliance have been unsuccessful or are impractical in the circumstances. Deployment should only occur in those cases where the inmate is in a position to inflict self-harm, harm others or significantly disrupt operations.

### **4. Warning**

Prior to deploying the CEE team, the warden or officer in charge shall inform the inmate that further non-compliance will result in deployment of a cell entry team.

### **5. Team Composition**

CEE team members will be properly trained and capable of carrying out their assigned duties. The minimum number of members on a team is four.

1. Team leader- one
2. Video recorder-one
3. Tactical members -minimum two

## **6. Equipment**

Each member of the CEE team will be provided with, and will wear, riot equipment, which shall include:

- (i) Helmet and visor
- (ii) Coveralls
- (iii) Groin protectors or body armour
- (iv) Shin pads
- (v) Gloves

Other items may be optional.

## **7. Briefing**

Prior to deployment, the team leader shall ensure that each member is:

- (a) properly equipped,
- (b) briefed regarding the situation and inmate background,
- (c) briefed on the tactics to be employed, and
- (d) capable of carrying out his/her required duties.

## **8. Area Preparation**

The unit or area to be entered should be on “lock down” or vacated by all inmates not involved in the situation.

## **9. Preparation of Destination**

The destination and route shall be determined, cleared, and secured prior to deployment.

## **10. Procedure**

All actions beginning with the briefing and continuing until the inmate is released at the new destination are to be video taped with the time counter operating to show fully the extent and continuous duration of the incident.

The team leader shall position other team members outside the cell or area to be entered in a manner that facilitates the entry method to be employed.

The inmate shall be instructed to:

1. Cease all non-compliant behaviour
2. Surrender all weapons
3. Dismantle/remove any barricades

4. Assume a position of submission:
  - (i) on knees
    - legs crossed
    - hands behind back, fingers locked
  - or
  - (ii) prone on floor
    - legs spread apart
    - hands behind back, fingers locked

The inmate shall be advised that:

- (i) Following assumption of the position of submission, the inmate will be:
  - (a) handcuffed
  - (b) searched; and
  - (c) moved to the designated location.
- (ii) No force will be used should the inmate remain cooperative
- (iii) Failure to comply with the instructions will result in the use of force which may include the use of a chemical agent
- (iv) Risk levels may be higher under certain conditions; i.e. inmate's asthma, contact lenses, heart conditions, etc.

All instructions and warnings to the inmate shall be made in a calm and non-threatening manner. They should be repeated and attempts should be made to ensure the inmate has heard and understands the warning.

### **11. Inmate Compliance**

If the inmate complies with the instructions, the team will enter the cell in the pre-determined order. The inmate will be handcuffed, searched and escorted to the pre-determined destination.

### **12. Inmate Fails to Comply**

If the inmate fails to comply with the instructions given, the team will enter the cell in the pre-determined order and employ the "take down" strategy outlined by the team leader. Generally this would involve the use of a chemical agent as opposed to other forms of physical force. Batons should only be used when all lesser means of force have failed, are impractical or where there are probable grounds to believe the inmate has a weapon. No force will be used as long as the inmate follows instructions and remains compliant.

The inmate will be taken down to the prone position using the minimal degree of force required to do so.

### **13. Secure Escort**

To ensure compliance during the escort, the inmate shall be walked backwards with one team member on each side with a third member walking behind, facing the inmate, with the chemical agent in the “ready” position.

### **14. Chemical Agent**

If a chemical agent is deployed, decontamination should occur as soon as is practical following application.

### **15. Removal of Restraints**

Once the inmate is placed in the new destination, restraints may be removed at the discretion of the team leader.

This will include a further search of the inmate and a replacement of the inmate’s clothing.

### **16. Reports**

The team leader shall prepare a report in each situation where the cell entry and extraction team was deployed. The written report shall be submitted along with the videotape of the incident and, when a scribe is used, the notes prepared by the scribe.

## **K. SECURITY ESCORTS**

### **1. General Comments**

The purpose of this section is to set out institutional policies and procedures governing the secure escort of inmates.

### **2. Ratio of Officers to Inmates**

The number of escort officers required to perform security escorts should be as follows:

- (i) One officer may escort up to four inmates being transferred to minimum security institutions
- (ii) One officer may escort up to two inmates on medical temporary absences if the inmates are on an unescorted temporary absence program
- (iii) Transfers from higher security institutions shall normally be two officers and up to four inmates
- (iv) Transfers to higher security institutions shall be no less than two officers and up to four inmates

- (v) Security escorts such as medical and outside court from the institution shall normally be performed by two officers ratio to three inmates
- (vi) Security escorts on commercial aircrafts will normally be one to one when transfers are to higher security

### **3. Restraint Equipment**

The escort officer, in consultation with the correctional supervisor in charge, shall decide what restraint is required, but the following will normally apply:

1. Inmates being transferred to minimum security institutions shall not be restrained.
2. Inmates being transferred to minimum security institutions in caged security vehicles shall not normally be restrained.
3. Inmates being transferred to higher security institutions will normally be handcuffed and leg ironed.
4. Inmates being transferred to higher security institutions for reasons of violence shall be placed in the regional body belt and leg irons
5. Inmates being transferred to higher security institutions on commercial aircrafts will normally have handcuffs removed while the aircraft is in the air. The captain of the aircraft has the authority to order restraint equipment left on.
6. On medical temporary absences, two sets of restraint equipment shall be mandatory except for inmates on approved unescorted temporary absence programs or other pre-release programs. Upon the inmate's arrival at the medical centre, if an upper body examination is to be done, then the leg irons will remain. If the examination is to the lower body, then handcuffs are to be retained.

Gas and firearms shall be carried with the authority of the warden.

### **4. Transportation**

A caged vehicle with two-way radio and phone capabilities shall normally carry out all security escorts.

The driver of the escort vehicle shall be considered in the ratio of officer to inmate.

Firearms and gas shall not be left unattended in vehicles.

The security escort vehicle shall be searched prior to and after each escort.

## **5. Briefing**

All escort officers shall report to the supervisor in charge for briefing prior to proceeding on escorts.

Particular attention shall be paid to past escapes, sentences for violence, amount of time to serve and past and present outside residences.

## **6. Documents**

Escort officers shall ensure that all required documents are taken with escorts.

## **L. EMERGENCY TRANSFERS**

(For other kinds of transfers, and transfer procedures, see I ADMINISTRATION.  
For transfers of juveniles, see II CASE MANAGEMENT)

### **1. General**

Inmate transfers between prisons should be kept to a minimum.

If, in the prison warden's opinion, the security of an open or community correctional centre is in immediate jeopardy, or the safety of the staff, the inmates, or the community is threatened by the conduct of an inmate, the warden may transfer that inmate to the nearest secure prison. He/she will advise the secure centre by telephone before the inmate arrives. The warden will arrange for a written report of the incident to be placed in the progress file, and for a copy of the report to be sent to the warden of the receiving prison within twenty-four hours.

A medical emergency may make an emergency transfer necessary. In that case, the prison warden will send copies of the report and the progress file to both the warden of the receiving institution and the senior medical officer.

An emergency exists when an inmate requires immediate medical care and cannot be moved to a community hospital, or requires higher security than is locally available to reduce the risk of a potentially serious threat to him/herself or others. The receiving institution will be notified in advance that the transfer is occurring.

When an emergency transfer must be made, the correctional centre director shall authorise the move and notify the director of the receiving centre. The nature of the emergency shall be recorded in the progress log. If time does not permit a progress log entry to be made, the director will communicate the nature of the emergency in writing to the director of the receiving institution within twenty-four hours of the transfer.

## **2. Transfer Summary**

When an inmate is transferred, a transfer summary shall be entered on the progress log indicating the reason for the move, the inmate's general attitude and behaviour, time spent in custody, legal status, any security alerts to watch for and the reasons for the security alert(s).

## **M. CONTROL OF KEYS**

### **1. General Comments**

The objective of this policy is to set forth specific guidelines and regulations for the issue, storage, identification and control of keys.

### **2. Locks**

All doors leading to the outside, except main entry doors, shall be kept locked except as required for special purposes, such as fire drills and special, approved program needs. Main entry doors shall be secured at 2200 hours daily and re-opened at 0700 hours the next day. The coordinator of the shifts arriving and leaving should verify that all keys are in place.

All security perimeter entrances, control centre doors, tier doors, all doors opening into a corridor, and gates shall be kept locked except when used for admission or exit of staff, inmates and/or visitors, and in an emergency. All emergency doors shall be unlocked, released, and opened at least once per shift to ensure against malfunction or destruction. They are to be used for emergency purposes only.

### **3. Security Classification**

All keys shall be given classification as defined below. All keys shall be identified in this policy as security, semi-security, and non-security keys.

Security key - any key, that if lost, would jeopardise the security of the institution.

Semi-security - a key that an inmate is allowed to possess to secure institutional property, such as to secure laundry or canteen. A security key or an electrical panel that an officer would control must cover this type of key.

Non-security key - a key that would have no effect on the security of the institution if lost, (i.e. inmate hobby tools). Duplicate keys would be available to security for frisking purposes.

#### **4. Register**

The warden shall designate a person who shall be responsible to ensure that an up-to-date register is kept of all locks in the institution which will contain the following:

- (i) Location of the lock
- (ii) The number of the keys
- (iii) The location of each key safe and peg number, individual key ring
- (iv) Pinning code
- (v) Security classification of the key

Staff shall be issued key tags with their name engraved and will be issued keys only upon exchanging the tag for the key.

Officers assigned to the issuing of keys from key safes shall be thoroughly familiar with their duties and shall follow instructions.

#### **5. Authorities**

The designated person as noted above shall be responsible for the control, issue and cutting of all keys.

#### **6. Access to Key Room**

During the hours the prison is open, the designated person will control access to the key room. During the hours the prison is closed, the officer in charge shall have access to the key room. The seal to the safe in the gate house control room containing the armoury key will be broken and replaced with one from the envelope in the same safe. Each time access is gained, a memo giving reasons will be written by the officer in charge to the designated person responsible.

#### **7. Transfer of Keys**

Keys being transferred from one officer to another shall be passed by hand. The officer receiving the key shall give the key back to the safe as soon as possible. Under no circumstances shall keys be thrown or slid on floors.

#### **8. Return of Keys**

All security and semi-security keys shall be turned in on a daily basis to the appropriate key safe.

#### **9. Inspections**

A designated individual carries out monthly inspections of security locks and keys and writes a report.

Officers and staff in charge of posts and work areas where key safes are housed shall be responsible for ensuring the following:

- (i) The issue and control of keys shown on the inventory list posted in the security key safes
- (ii) Taking inventory of the keys under his/her charge in the presence of the officer when assuming duty

## **10. Inmate Authorisations**

Inmates shall not, under any circumstances, be allowed to handle security keys.

Cell keys which allow inmate cell access shall be issued.

## **11. Lost, Missing or Damaged Keys**

Any and all keys lost, missing or damaged shall be immediately reported to the officer in charge. A detailed report shall be completed.

## **N. TOOL CONTROL**

### **1. General**

The purpose of this policy is to outline procedures and policies for tool and equipment control.

Tools - shall include any portable, manufactured instrument which in general terms could be utilised to effect an escape, cause property damage, or be held out to threaten or harm personnel.

### **2. Identification**

Each division or section within the prison shall be issued an identification to be stamped on each tool and small equipment in their possession.

Each tool shall be assigned one of the following security classifications.

#### **2.(a) Non-Restricted (Class N)**

Non-restricted tools are used daily and are not usually expected to be used in any dangerous or illegal way.

### **2.(b) Restricted (Class R)**

Restricted tools are those most likely to be used in an escape attempt or in any dangerous or illegal way. Class “R” tools shall be distinctively colour-coded with a blue marking.

#### **2.(b)(i) Hobby Craft Tools**

All hobby craft tools that specifically relate to a hobby shall be authorised for an inmate’s use by the institutional head. All tools referred to above shall be strictly controlled. The inmate shall publicly display a permit authorising use on his/her cell wall.

### **3. Issue of Tools**

Tools shall be issued by and to persons authorised by the warden only and a record shall be made of the transaction. Upon receipt, the care and custody of the tool(s) shall be the responsibility of the receiver and must be returned to the storage area as soon as possible after use.

Restricted tools may be issued to inmates and staff for daily use but must be accounted for and secured at the end of each work period.

### **4. Inventory**

All tools shall be registered and marked for inventory purposes, and all tool control centres shall carry inventory lists of tools both in use and in storage.

### **5. Storage of Tools and Equipment**

All tools shall be stored in the proper tool crib, cupboard, or shadow board. According to the classification of the tool and the amount of security required for its safekeeping, it shall be the responsibility of each shop, department or activity to ensure that all tools and equipment in use in their area or assigned to their area are stored in the proper manner.

### **6. Classification**

Tools that are restricted to one specific area shall be colour-coded to denote their authorised location.

### **7. Storage and Disposal**

Tools deemed no longer serviceable shall be withdrawn from use and held in storage until condemned and disposed of in a manner determined by the warden.

Upon receipt of new tools or the disposal of condemned tools, inventory adjustments shall be made immediately.

## 8. Missing or Lost Tools

When a tool or piece of equipment is missing or lost, the responsible officer shall:

- (a) notify the prison officer in charge immediately,
- (b) make a complete search of the area for the missing tool or equipment, and remain in the institution until the tool is found or staff is discharged by the officer in charge, and
- (c) complete a form entitled "Missing Tool Action Report".

## 9. Loaning of Tools and Equipment

No tools or equipment shall be removed from the institutional property without written authorisation of:

- (i) Division head concerned in the case of such items removed for the purpose of being used for institutional purpose or duly authorised loans
- (ii) By the divisional head concerned, for such items being forwarded for repairs, exchange or renovation

## O. CONTRABAND

### 1. General

The purpose of this policy is for staff to identify procedures for control and storage of all contraband.

#### Contraband -

- (a) any article whose possession is prohibited by law
- (b) any article not authorised by the prison warden
- (c) all monies not authorised by the prison warden

The unauthorised possession of a 'dangerous substance' shall also constitute contraband material and shall be considered a breach of prison policy. (For a definition of 'dangerous substance' see below.)

### 2. Confiscation

Contraband shall be confiscated and, upon the authority of the warden, shall be dealt with by one of the following means:

- (i) Placed in inmates' effects
- (ii) Returned to owner, if other than inmate
- (iii) Placed in a protected setting for future disposal

All contraband must be properly tagged and sealed in plastic when possible.

Drugs and weapon contraband may be placed in the contraband vault.

An appropriately designated person on a daily basis shall pick up contraband from the contraband boxes during the normal work week. All contraband shall be recorded and stored in vaults provided.

Monthly meetings shall be conducted for the disposition and disposal of contraband.

## **P. CONTROL OF DANGEROUS SUBSTANCES**

### **1. General Comments**

The goal of this policy is to outline the procedures for the storage, issue and use of dangerous substances.

#### ***1.(a) Definition of 'Dangerous Substances'***

##### **1.(a)(i) Alternative 1**

A 'dangerous substance' can be defined as any substance which may pose a threat or potential threat to security and the safety of staff and inmates. Examples of dangerous substances are:

- (i) Gasoline, kerosene, diesel fuel or other flammable liquids
- (ii) Cleaning agents which contain acids or caustic ingredients such as lye
- (iii) Toxic chemicals such as weed sprays, insecticides
- (iv) Toxic substances used for pest control
- (v) Other substances which may pose a threat to security and safety of inmates

##### **1.(a)(ii) Alternative 2**

'Dangerous substance' means any fluid, powder or mixture which under certain conditions will burn, scald, poison, explode, intoxicate or in any way prove harmful to persons or property, and shall include:

- 1. Paints
- 2. Thinners
- 3. Cleaning fluids
- 4. Gasoline
- 5. Kerosene
- 6. Fuel oil
- 7. Oils
- 8. Acids

9. Glue
10. Special inks
11. All caustic substances
12. Inflammable liquids
13. Defoliants
14. Herbicides
15. Fungicides
16. Insecticides
17. Fertilizers
18. Anti-freeze
19. Gestentner fluids

## **2. Storage**

All dangerous substances held for use by institution staff or contractors must be stored in safe, secure areas and in proper, approved containers. Staff in each area storing, issuing or using dangerous substances shall be responsible for the security of such substances. Accurate records must be kept which record the type, quantity, date, time and name of the person receiving to ensure proper control of such substances.

## **3. Issue and Use**

Dangerous substances shall be issued to authorised staff only. Inmates should use dangerous substances only under the direct supervision of authorised staff. The officer responsible for inmates who are actually engaged in work where these substances are necessary shall issue the substances. Only the minimum quantity sufficient to meet the requirements of the task, and no more than can be used during each period of work, shall be issued at any one time. Wherever possible, these substances shall be prepared for use and used under the direct surveillance of an officer. It is the duty of every officer to be on the alert for any signs of improper use or control of any dangerous substance.

## **4. Stocks and Storage**

Stocks of dangerous substances required in the normal operation of any department shall be limited to quantities sufficient only to meet specific needs. When no longer required, such materials shall be removed from the user's department to a secure centralised storage area.

Dangerous substances, when not in use, shall be kept locked in an appropriate receptacle within the user's department. Only by members of the staff shall retain the keys.

## **5. Self-Contained Breathing Apparatus**

### ***5.(a) Objectives***

The objectives of this policy are to ensure that:

- (a) all prisons that generally utilise locking doors, gates and barriers for the control of inmate movement shall acquire and have available for use, by trained staff, suitable types and numbers of units of self-contained breathing apparatus and related equipment;
- (b) open custody facilities, including centres which use cells or locked rooms only for brief or temporary holding or restraint purposes, are exempted from this policy unless the standing orders for the centre require staff to enter smoke-filled buildings for the purpose of rescuing/removing inmates or fellow staff; and
- (c) any institution meeting the criteria stated in policy (a) above, but which, due to unique local circumstances, can make a case for exemption may be exempted from this policy.

#### ***5.(b) Purpose of Equipment***

The presence and use of a self-contained breathing apparatus is for the purpose of enabling access to smoke-filled areas or areas containing toxic emissions harmful to health.

#### ***5.(c) Instances for Use***

This access is for rescue purposes or for the purpose of removing inmates prior to the entry of professional fire fighters.

#### ***5.(d) Initial Training of Officers***

Officers using self-contained breathing apparatus shall be trained to a standard satisfactory to the local standards as set out.

Following initial training, self-contained breathing apparatus on-site trainers require re-training and re-certification every two years.

#### ***5.(e) Refresher Training***

Officers using the equipment require refresher training on a monthly basis. The intent of refresher training is to ensure that staff are continuously familiar with breathing apparatus and related equipment.

Refresher training shall include the donning of apparatus and related equipment, operating equipment briefly, and removing, cleaning and returning equipment to its appointed place.

In addition to the monthly training, officers shall receive on an annual basis, refresher training that shall include a respirator facial fit test, a blind test practicum, and a written (pass/fail) test.

Officers who fail the written test shall be considered de-certified until such time as they are able to pass the test.

#### ***5.(f) Training Records***

Each prison bound by this policy shall establish a records system dedicated to the training program. All training shall be recorded in this system.

A complete training record system for each officer shall be maintained, and shall include a master record and an individual record.

The individual record shall contain information relating to the amount and type of training provided to each officer as well as the actual time the officer uses the equipment for respiratory protection.

The designated training officer or safety training officer shall maintain the records. The individual training records shall provide the necessary information to the master training records kept by the training division or the centre as dictated by prevailing practice.

Officers chosen from current staff for training and certification in the use of self-contained breathing apparatus shall be physically fit and able to wear a respirator. Where doubt exists as to the level of fitness or ability to wear a respirator, medical advice shall be sought from a physician knowledgeable about the work and conditions of work in correctional centres. The physician shall submit a report indicating whether the officer is fit and able to wear a respirator.

#### ***5.(g) Availability of Officers***

Each prison bound by this policy (or identifiable unit therein) as local circumstances dictate, shall establish and maintain a pattern of staffing adequate to ensuring that there are staff trained in the use of self-contained breathing apparatus on site at all times.

Officers not trained or not currently certified to use self-contained breathing apparatus shall not, under any circumstances, attempt to use self-contained breathing apparatus for any purpose other than participation in approved training.

Officers who are not equipped with, nor actively using, self-contained breathing apparatus and who are exposed to smoke or toxic emissions shall exit areas of exposure and shall not return until the possibility of dangerous exposure has passed.

#### ***5.(h) Proper Use of Equipment***

Officers who are trained and currently certified to use self-contained breathing apparatus shall only use equipment that is stored and maintained in keeping with prison service policies as well as prevailing standards or directives supplied by the manufacturer, local compensation boards and standards associations.

### ***5.(i) Officers to Work in Pairs***

Officers using self-contained breathing apparatus shall work in pairs or larger numbers, and shall maintain communication (visual, voice, or physical contact) at all times.

### ***5.(j) Oral Communication***

Oral communication while wearing a respirator is often necessary to perform specific tasks. However, movement of facial features while talking may adversely affect the seal of the face piece. Use of various types of mechanical and electronic speech transmission devices available may minimise the possibility of face piece leakage when the user is speaking.

When a mechanical speaking diaphragm is part of the barrier between the respirator wearer and the ambient atmosphere, it shall be frequently inspected for leakage and shall be protected from puncture or rupture.

Respirators with electronic speech transmission devices having an electrical power supply shall be intrinsically safe and approved for the specific hazardous atmosphere in which they are used.

### ***5.(k) Acquisition of Equipment***

Each prison shall acquire self-contained breathing apparatus units and related equipment (fire-resistant overalls, gloves and helmets) in numbers satisfactory to local standards.

Self-contained breathing apparatus units and related equipment shall be kept in locations selected for quick accessibility, high visibility and security from tampering.

Each prison requiring self-contained breathing apparatus shall establish a program of regular maintenance of all equipment.

The maintenance shall comply with all recommendations furnished by equipment manufacturers and/or vendors as with local requirements, and shall include a replacement of air in all cylinders on a minimum of once in each three month-period unless otherwise specified by the equipment manufacturer.

## **Q. CONTROL OF WEAPONS/CHEMICAL AGENTS**

### **1. General Comments**

The objective of this policy is to outline to all correctional officer staff the procedures for the control of weapons, ammunition and chemical agents on armed posts, institutional property, and when in storage in the armoury.

## **2. Armoury Access**

During the hours the prison is open a person designated by the warden will control access to the armoury.

During the hours the institution is closed, only the prison officer in charge may enter the armoury. Each time a memo giving reasons for access will be written.

## **3. Inventory**

An inventory of all firearms, ammunition and chemical agents will be maintained and inventory cards will be checked monthly (i.e. the state of repair of each weapon and the expiry date of the gas, to ensure that weapons and gas are repaired or replaced when necessary).

## **4. Removal Record**

Separate logbooks shall be maintained for the removal of firearms, ammunition and chemical agents from the armouries.

Any weapon or chemical agent taken out of the armoury shall be entered in the ledger provided at the armoury giving the date, type and make of weapon or chemical agent, serial number, name of person issuing the weapon or chemical agent and the purpose for which it has been issued.

## **5. Armed Posts**

Officers assigned to an armed post shall log type of weapon, serial or weapon control number, and type and amount of ammunition issued to him/her.

Weapons being returned to the armouries will be carefully checked for serial or control numbers, ammunition counted and verified against amount issued, and properly receipted.

## **6. Training Required**

No officer shall be issued with a weapon unless he/she has been trained in its use. An up-to-date list of officers holding a “currently qualified” status shall be posted in the armouries.

## **R. WEAPON LOADING/UNLOADING**

### **1. General Comments**

The goal of this policy is to provide direction to staff for the safe loading and unloading of firearms.

Firearm discharge receptacles shall be provided for the loading and unloading of firearms and shall be located at the principal entrance area, armouries, and all static armed posts.

## **S. FIRE PROTECTION SYSTEMS**

### **1. Fire Protection Equipment**

The warden of every institution shall ensure that the following fire protection systems and equipment are inspected, tested and maintained in accordance with fire code regulations:

- (i) Emergency lighting
- (ii) Fire detection, alarm and fire fighting equipment
- (ii) Emergency power
- (iv) Exits
- (v) Water supply
- (vi) Structural fire resistance

### **2. Firefighting Equipment, Planning and Procedures**

The warden of every prison shall ensure that:

1. Adequate firefighting equipment is available, inspected regularly, and maintained in a serviceable condition at all times.
2. There is a plan for fighting fires, including the evacuation of a building or part of it. This plan should be developed in cooperation with the fire marshal of the area.
3. All staff are fully familiar with the operation of the firefighting equipment and fire fighting and evacuation procedures.
4. Keys to all emergency exits and to firefighting emergency equipment that may be locked in storage facilities are immediately available. Such keys should be easily identified, to avoid confusion during the emergency.
5. Practise fire drills or simulated fire drills are held at least twice a year.

6. A fire drill record is completed after each fire record drill and a copy is forwarded to the director, inspection and standards.

### **3. List of Firefighting Equipment and Alarm System**

Required with the first fire drill report is a complete list of all firefighting equipment, the alarm system and the location of each in the centre.

### **4. Notification**

Serious fires are to be immediately brought to the attention of the regional director, or his/her designate, the prison's commissioner and the director, inspection and standards, by telephone.

## **T. UNUSUAL INCIDENTS**

Any discrepancies within the normal routine of the unit or any unusual behaviour on the part of inmates shall be reported in writing to the prison officer in charge, outlining the discrepancy, action taken and resolution of the problem. A copy of the report must be provided to the prison officer in charge prior to the end of the shift in which the incident occurred.

## **U. EMERGENCY SITUATIONS**

### **1. Escapes and Prison Breaches**

see also I ADMINISTRATION

#### ***1.(a) Definitions***

Escape is defined as anyone who:

- (a) escapes from lawful custody, or
- (b) is, before the expiration of a term of imprisonment to which he/she was sentenced, at large without lawful excuse, the proof of which lies upon him/her.

Prison breach is defined as anyone who:

- (a) by force or violence breaks out of a prison with intent to set at liberty him/herself or any person confined therein, or
- (b) with intent to escape forcibly breaks out of, or makes any breach in, a cell or other place within a prison in which he/she is confined.

### *1.(b) Plan of Procedure*

Designate an officer to be responsible for coordinating the procedures in case of escape.

Designate the officer responsible for immediately notifying the local law enforcement agency of the particulars of the escape, or breach.

Maintain an up-to-date list of all officers, with addresses and phone numbers, so that off-duty staff may be called in if necessary.

Maintain a list of posts or stakeout positions to be manned. These posts or stakeout positions may be assigned on a sector basis, depending upon the area surrounding the prison. The procedure should ensure:

- (a) that officers at assigned posts may only be removed by the officer in charge of the search operation; and for relief and/or refreshments for officers manning posts for more than two hours.

Have available a “code of instructions” for each post or stakeout position manned, giving a map of the area- residents- locations of nearest phone, and any other information that will assist the officer.

Have the armourer or other designated officer record the issuance of firearms, radios, flashlights, batons, etc., to the officers dispatched on the search.

Have the records officer:

- (a) notify the regional directors and the commissioner of the escape(s) or breach, and
- (b) prepare and forward escape or breach notices to law enforcement agencies, and include in this notice information on:
  - (i) the remnant of sentence to be served; and
  - (ii) any self-hurt behaviour exhibited by the inmate while in custody.

Have all available officers report to the responsible officer.

Have an officer designated to inform the local law enforcement agency, and any other agencies previously informed of the escape, when an escapee(s) has been apprehended by the prison’s personnel.

If roadblocks are considered necessary or desirable, approval for them shall be obtained from the local law enforcement agency.

### ***1.(c) Files***

When an inmate escapes from a prison, his/her complete file(s) shall be forwarded to the nearest records office and shall be clearly marked as an escape file with the date and time of escape recorded.

## **2. Suppression of a Riot**

### ***2.(a) General Comments***

The purpose of riot control action is, in order of priority:

1. To isolate the riot situation
2. To contain the riot situation
3. To terminate the riot situation

### ***2.(b) Tactical Squads***

Officers shall be assigned to tactical squads and trained in the methods of riot control, and develop contingency plans for assistance from other agencies.

### ***2.(c) Authority to Activate***

Tactical squads shall be activated on the authority of the prison warden or his/her deputy, or in their absence by the officer in charge of the prison. Once activated, officers are under the direction of their tactical squad commander.

### ***2.(d) Methods of Action***

All methods of action employed in riot situation shall:

- (i) Protect life
- (ii) Prevent escape
- (iii) Protect property
- (iv) Allow inmates to surrender peacefully
- (v) Take into custody parties to the riot

## **3. Hostage Taking**

### ***3.(a) Local Police Force***

The warden or his/her delegate shall:

- (a) immediately contact the nearest detachment of the municipal police force,

- (b) immediately maintain a ‘holding and containment’ action until the police can be brought to the scene to act as negotiators and to assume responsibility for the hostage situation, and
- (c) maintain a close contact with the commander of the police forces at the scene and provide resources and support where appropriate.

### ***3.(b) Contingency Plans***

The prison warden shall establish contingency plans which will allow for the necessary and routine function of the prisons to be maintained.

Prison service personnel shall provide resources and decision-making capability to:

- (a) support the police,
- (b) define and contain, in consultation with the police commander, a perimeter surrounding the scene, and
- (c) provide background information regarding the perpetrator(s), hostage(s), physical layout, etc.

## **4. Bombs and Bomb Threats**

### ***4.(a) General Comments***

Bomb threat - a written or oral communication which indicates a destructive device is on the premises.

Destructive device - any object capable of exploding and causing personal injury or damage to property.

Safe zone - an area to which a destructive device may be safely removed and examined or detonated.

While many bomb threats may be false and intended as frivolous or disruptive, each threat shall be considered genuine until shown otherwise. Even in the absence of direct information of a threat, staff should be alert to suspicious items or unusual circumstances which might be reasonably considered a threat.

### ***4.(b) Types***

The most common types of bomb threats are:

- (i) An anonymous telephone call warning that a bomb will explode at a specific time (this may be made directly to the correctional centre, or indirectly through a police detachment or other office)
- (ii) An anonymously written note so saying

(iii) Confidential information from an inmate advising he/she has been so informed

#### ***4.(c) Responses- Telephone Threats***

The officer receiving the call should keep the caller talking as long as possible in order to determine the:

- (a) specific location of the device,
- (b) time set for detonation,
- (c) type of explosive and potential damage,
- (d) reason for this action, and
- (e) characteristics of the caller.

The prison warden shall be notified immediately and in turn shall contact the local police detachment for instructions and assistance in the search and investigation.

The prison warden shall assess the circumstances and determine:

- (i) The search methods to be deployed
- (ii) Whether evacuations are necessary
- (iii) Adequate security and safety for search and evacuation
- (iv) Appropriate instructions and advice to staff and inmates respecting search and evacuation

Actions to be taken when written notes or letters, and confidential information are brought to the attention of prison staff from an inmate shall perform the following:

1. The officer receiving the note or information shall immediately notify the warden.
2. The prison warden or officer in charge of the prison shall assess the circumstances and determine whether action is required.
3. Written threats, including the envelope in which it was sent, should be handled and preserved for evidentiary examination. A photocopy should be made to restrict handling to one officer only. That officer should initial and date the time of receipt.
4. Confidential information from an inmate shall be made the subject of a written report by the receiving officer, and forwarded to the prison warden or officer in charge of the prison.

#### ***4.(d) Search and Locating***

Extreme care must be exercised in conducting a search for explosive devices. Any unusual or out of the ordinary item which creates suspicion should not be disturbed.

An area containing a suspicious item or suspicious circumstances shall be evacuated and entry shall be prohibited.

The local police detachment shall be notified and the advice and services of that detachment shall be obtained.

Explosive ordinance disposal expertise should be obtained through the police or the armed forces.

### **5. Protection of Evidence in Critical Incidents**

#### ***5.(a) General***

Critical incidents - shall include suicides, assault, arson, wilful damage, escapes, industrial and vehicle accidents.

#### ***5.(b) Responsibility***

The initial responsibility of the first officer to attend the scene of a critical incident shall be to render first aid, if required, until the arrival of a more competent person.

Next is the responsibility to protect all evidence relating to the incident. In order to do this, it may be necessary to either:

- (a) prevent other personnel from entering the site, or
- (b) prevent other personnel from moving, touching or altering existing site conditions.

#### ***5.(c) Evidence Matter***

In all cases, adequate steps must be taken to protect such evidence matter as:

1. Footprints, fingerprints, and tire marks
2. Tools and tool marks
3. Weapons, blood stains
4. Personal property and clothing
5. Narcotics and drugs
6. Correspondence

**5.(d) Firearms**

When a firearm has been discharged resulting in any injury or death, the firearm, upon being returned to the armoury, shall be sealed for evidence and labelled with the returning officer's name, the return date and time and the receiving officer's name, the return date and time, and signature.

**5.(e) Written Reports**

Written reports shall be submitted by attending officers on all critical incidents. All correctional centres shall develop and maintain written contingency plans detailing responses and assigning responsibilities for responding to critical incidents.

**V. YOUTH SECURITY, CONTROL AND SUPERVISION****1. Control Centre**

All youth containment/detention centres shall maintain a control centre to provide order and security.

*Discussion:*

A control centre is essential for integrating various security and communicating systems. The centre should be staffed on a twenty-four hour basis and access to it shall be limited to authorised personnel.

In camp settings, control centre staffing shall be determined by program requirement.

The control centre shall be responsible for:

- (a) current information on youth population counts and distribution;
- (b) key control;
- (c) communication systems within the centre and with externally positioned personnel;
- (d) monitoring and recording visits; and
- (e) any other responsibility assigned by the director of the centre for the orderly operation of the program.

**2. Communication Systems**

At the beginning of each shift, the officer in charge of the shift shall ensure that the security communication systems are tested, and malfunctions noted and immediate steps taken to rectify malfunctions or provide temporary alternative means of communication pending repair of the regular systems.

*Discussion:*

The intent of the standard is to ensure that the systems upon which staff rely for security communications are adequate for purposes relating to the security, safety and welfare of staff and resident youths alike.

**3. Safety Systems**

The director of every institution and youth centre shall ensure that the following fire protection systems and equipment are inspected, tested and maintained in accordance with fire code regulations:

- (i) Emergency lighting
- (ii) Fire detection, alarm and fire fighting equipment
- (iii) Emergency power
- (iv) Exits
- (v) Water supply
- (vi) Structural fire resistance

**4. Security Checks**

All bars, windows, locks, walls, floors, ventilation covers, glass panels, access plates, protected screens, doors, emergency alarm systems, and other security facilities shall be subject to a daily visual check for operational wear and tampering by resident youths. The results of these inspections shall be noted in the unit log and exception reports shall be submitted in writing to the officer in charge or director.

*Discussion:*

It is necessary that inspections be performed on a scheduled basis and that the results be recorded in a formal manner. Any defective security equipment should be replaced immediately. Such inspections should be scheduled so as not to form a set and predictable routine.

An exception report is prepared when signs of inmate tampering or unacceptable wear are noted in the visual examination.

On a weekly basis, all bars, windows, locks, walls, floors, ventilation covers, glass panels, access plates, protected screens, doors, emergency alarm systems, and other security facilities shall be subjected to a rigorous physical examination in order to ensure structural integrity and to confirm the results of the daily visual examination. The results of these inspections shall be noted in the unit log, with exception reports to the officer in charge or director of the centre.

*Discussion:*

The weekly physical examination, as opposed to visual inspections, shall involve the officer physically testing the security systems and communications components listed in the standard.

**5. Security Systems**

All security perimeter entrances, control centre doors, unit doors, gates and all doors opening into a corridor, shall be kept locked except when used for admission or exit of staff, inmates and/or visitors, and in an emergency.

*Discussion:*

The standard assumes certain exceptions such as sleeping room doors in periods during which resident youths are not confined in their rooms and enjoy authorised access to the adjoining areas(s). The standard affirms that vacant, unassigned sleeping rooms should remain locked and beyond the routine access of resident youths.

**6. Searches**

A search shall be made of each individual room prior to the occupancy by a new youth.

*Discussion:*

The purpose of any search is to determine that an area is free of contraband. Responsibility for contraband objects can then be more clearly allocated.

For all secure custody centres, a visual inspection of each youth confined to a room or dormitory and the area immediately surrounding each housing unit shall be conducted by staff of the youth custody centre at intervals not to exceed one half hour, and more often as required, when youths are confined to their individual housing units.

*Discussion:*

It is imperative that staff be aware of what is happening in their particular area of responsibility. The major emphasis for such knowledge should be the well-being of the youths under their care and control. These inspections should be at irregular intervals so as not to form a set and predictable pattern.

For all open custody centres, a visual inspection of each youth confined to a room or dormitory and the area immediately surrounding each housing unit, shall be conducted by

staff of the youth custody centre. This shall occur at intervals not to exceed one hour, and more often as required, when youths are confined to their individual housing units.

*Discussion:*

It is imperative that staff be aware of what is happening in their particular area of responsibility. The major emphasis for such knowledge should be the well-being of the youths under their care and control. These inspections should be at irregular intervals so as to form a set and predictable pattern.

Searches shall be conducted on a regular basis of all common and program areas of the youth containment/detention centre to which youths have access.

*Discussion:*

The purpose of the search is the detection and seizure of contraband objects. The schedule of the searches will be determined by the director and will not, on a regular basis, include the room or property of a youth which are subject to search only where there are reasonable and probable grounds to believe the youth is in possession of contraband, or upon the authority of the director.

## **7. Counts**

Total youth population identification and count shall be made at the commencement of each regularly scheduled shift and on at least three other occasions during the shift. The results shall be recorded in writing at the control centre. The record will also identify the staff member responsible for the entry.

*Discussion:*

The count procedure should not unduly delay or disrupt program activities. Staff who will be responsible for youth supervision should conduct it. Where accounting is made of sleeping or motionless youths, evidence of life must be forthcoming. All counts shall take into consideration resident youths who are temporarily absent from the centre. Where a count discrepancy is apparent, it will be necessary to repeat the procedure for confirmation purposes. Appropriate emergency responses to confirmed count discrepancies may vary from centre to centre.

A formal count shall be conducted prior to and immediately following all mass movements of youths.

*Discussion:*

Wherever there is a mass movement of youths from one part of the centre to another area, for such purposes as work, meals, recreation, etc., a count shall be conducted.

An informal count shall be taken of youths at various and unscheduled times and under situations not included in the formal count.

*Discussion:*

An ongoing informal counting procedure helps to keep staff aware of the placement of youths within the facility and its programs.

**8. Supervision**

Youth supervisor posts shall be located so as to permit staff to be aware of, and respond to, indications of youth needs.

*Discussion:*

The location of staff as close as possible to living areas and program activities is necessary for staff to be aware of activities in the area, able to maintain security and control and properly positioned to respond to indications of need.

The custody and control of youths shall not be delegated to other youths in a containment/detention centre.



## V HEALTH

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## V HEALTH

### **PART ONE: UN GUIDELINES**

#### **A. MEDICAL SERVICES**

##### **1. General**

###### *Universal Declaration of Human Rights*<sup>1</sup>

###### *Article 25*

1. Everyone has the right to a standard of living adequate for the health and well-being of him/herself and of his/her family. This shall include food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his/her control.

###### *Basic Principles for the Treatment of Prisoners*<sup>2</sup>

###### *Principle 9*

Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.

###### *Standard Minimum Rules for the Treatment of Prisoners*<sup>3</sup>

###### *Rule 22*

1. At every institution the services of at least one qualified medical officer, who should have some knowledge of psychiatry, shall be available. The medical services should be organized in close relation to the general health administration of the community or nation. These services shall include a psychiatric service for the diagnosis, and, in proper cases, the treatment of states of mental abnormality.

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<sup>1</sup> General Assembly Resolution 217 A (III) of 10 December 1948.

<sup>2</sup> General Assembly Resolution 45/111 of 14 December 1990.

<sup>3</sup> First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 1955 and approved by the Economic and Social Council resolution 663 (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>4</sup>

*Principle 24*

A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his/her admission to the place of detention or imprisonment. This medical care and treatment shall be provided whenever necessary and free of charge.

*Principle 25*

A detained or imprisoned person or his/her counsel shall, subject only to reasonable conditions to ensure security and good order in the place of detention or imprisonment, have the right to request or petition a judicial or other authority for a second medical examination or opinion.

*Principle 26*

The fact that a detained or imprisoned person underwent a medical examination, the name of the physician and the results of such an examination shall be duly recorded. Access to such records shall be ensured. Modalities therefore shall be in accordance with relevant rules of domestic law.

## **2. Medical Ethics**

*Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detained Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*<sup>5</sup>

*Principle 1*

Health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide protection of physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained.

*Principle 2*

It is a gross contravention of medical ethics, as well as an offence under applicable international instruments, for health personnel, particularly physicians, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment.

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<sup>4</sup> General Assembly Resolution 43/173 of 9 December 1988.

<sup>5</sup> General Assembly Resolution 37/1194 of 18 December 1982.

*Principle 3*

It is a contravention of medical ethics for health personnel, particularly physicians, to be involved in any professional relationship with prisoners or detainees the purpose of which is not solely to evaluate, protect or improve their physical and mental health.

*Principle 4*

It is a contravention of medical ethics for health personnel, particularly physicians:

1. To apply their knowledge and skills in order to assist in the interrogation of prisoners and detainees in a manner that may adversely affect the physical or mental health or condition of such prisoners or detainees and which is not in accordance with the relevant international instruments.
2. To certify, or to participate in the certification of, the fitness of prisoners or detainees for any form of treatment or punishment that may adversely affect their physical or mental health and which is not in accordance with the relevant international instruments, or to participate in any way in the infliction of any such treatment or punishment which is not in accordance with the relevant international instruments.

*Principle 5*

It is a contravention of medical ethics for health personnel, particularly physicians, to participate in any procedure for restraining a prisoner or detainee unless such a procedure is determined in accordance with purely medical criteria as being necessary for the protection of the physical or mental health or the safety of the prisoner or detainee him/herself, or his/her fellow prisoners or detainees, or of his/her guardians, and presents no hazard to his/her physical or mental health.

*Principle 6*

There may be no derogation from the foregoing principles on any ground whatsoever, including public emergency; particularly the Universal Declaration of Human Rights (Resolution 217 A (III)), the International Covenants on Human Rights (Resolution 2200 A (XXI), annex), the Declaration on the Protection of all Persons from Being Subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (resolution 3425 (XXX), annex) and the Standard Minimum Rules for the Treatment of Prisoners (First United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report by the Secretariat, United Nations publication, Sales No. E. 1956.IV.4.) annex I.A).

*Code of Conduct for Law Enforcement Officials*<sup>6</sup>

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<sup>6</sup> General Assembly Resolution 341169 of 17 December 1979.

### *Article 6*

Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention wherever required.

#### *Commentary:*

(i) 'Medical attention', which refers to services rendered by any medical personnel including certified medical practitioners and paramedics, shall be secured when needed or requested.

(ii) While the medical personnel are likely to be attached to the law enforcement operation, law enforcement officials must take into account the judgment of such personnel when they recommend providing the person in custody with appropriate treatment through, or in consultation with, medical personnel from outside the law enforcement operation.

(iii) It is also understood that law enforcement officials shall also secure medical attention for victims of violations of law or of accidents occurring in the course of violations of the law.

## **3. Medical Officers**

### *Standard Minimum Rules for the Treatment of Prisoners*<sup>7</sup>

#### *Rule 24*

The medical officer shall see and examine every prisoner as soon as possible after his/her admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures, the segregation of prisoners suspected of infectious or contagious conditions, the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.

#### *Rule 25*

1. The medical officer shall report to the director whenever he/she considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by condition of imprisonment.

2. The medical officer shall report to the director whenever he/she considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

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<sup>7</sup> *Supra*, note

*Rule 26*

1. The medical officer shall regularly inspect and advise the director upon:
  - (a) the quantity, quality, preparation and service of food,
  - (b) the hygiene and cleanliness of the institution and the prisoners,
  - (c) the sanitation, heating, lighting and ventilation of the institution,
  - (d) the suitability and cleanliness of the prisoners' clothing and bedding,
  - (e) the observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.
2. The director shall take into consideration the reports and advice that the medical officer submits according to Rules 25.2 and 26 and, in case he/she concurs with the recommendations made, shall take immediate steps to give effect to those recommendations. If they are not within his/her competence or if he/she does not concur with them, he/she shall immediately submit his/her own report and the advice of the medical officer to a higher authority.

*Rule 52*

1. In institutions that are large enough to require the services of one or more full-time medical officers, at least one of them shall reside on the premises of the institution or in its immediate vicinity.
2. In other institutions, the medical officer shall visit daily and shall reside near enough to be able to attend without delay in cases of urgency.

**4. Specialist Treatment**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>8</sup>

*Rule 22*

2. Sick prisoners who require specialist treatment shall be transferred to specialised institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.

**5. Dental Services**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>9</sup>

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<sup>8</sup> Supra, note

<sup>9</sup> Supra, note

*Rule 22*

3. The services of a qualified dental officer shall be available to every prisoner.

**6. Research**

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>10</sup>

*Principle 22*

No detained or imprisoned person shall, even with his/her consent, be subjected to any medical or scientific experimentation that may be detrimental to his/her health.

**B. ACCOMMODATION AND HYGIENE****1. Accommodation**

*Standard Minimum Rules for the Treatment of Prisoners*

*Rule 9*

1. Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by him/herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

2. Where dormitories are used, prisoners carefully selected as being suitable to associate with one another in those conditions shall occupy them. There shall be regular supervision by night, in keeping with the nature of the institution.

*Rule 10*

All accommodation provided for the use of prisoners, and in particular all sleeping accommodation shall meet all requirements of health, with due regard being paid to climatic conditions, particularly to cubic content of air, as well as minimum floor space, lighting, heating, and ventilation.

*Rule 11*

In all places where prisoners are required to live or work,

(a) the windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation, and

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<sup>10</sup> General Assembly Resolution 43/173 of 9 December 1988.

(b) artificial light shall be provided sufficient for the prisoner to read or work without injury to eyesight.

*Rule 12*

The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

*Rule 13*

Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in temperate climate.

*Rule 14*

All parts of an institution used by prisoners shall be properly maintained and kept scrupulously clean at all times.

## **2. Clothing and Bedding**

### *Standard Minimum Rules for the Treatment of Prisoners*<sup>11</sup>

*Rule 17*

1. Every prisoner who is not allowed to wear his/her own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating.

2. All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.

3. In exceptional circumstances when prisoners are removed outside the institution for an authorised purpose, they shall be allowed to wear their own clothing or other inconspicuous clothing.

*Rule 18*

If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use.

*Rule 19*

Every prisoner shall, in accordance with local or national standards, be provided with a

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<sup>11</sup> Supra, note

separate bed, and with separate and sufficient bedding, which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

### **3. Personal Hygiene**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>12</sup>

#### *Rule 15*

Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

#### *Rule 16*

In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.

## **C. FOOD**

### **1. General**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>13</sup>

#### *Rule 20*

1. The administration shall provide prisoners with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served at usual hours.
2. Drinking water shall be available to every prisoner whenever he/she needs it.

## **D. EXERCISE AND SPORT**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>14</sup>

#### *Rule 21*

1. Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

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<sup>12</sup> Supra, note

<sup>13</sup> Supra, note

<sup>14</sup> Supra, note

2. Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end, space, installations and equipment should be provided.

*Rule 78*

Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners.

**E. WORK PROGRAMS**

see also II CASE MANAGEMENT and III INMATE RIGHTS AND TREATMENT OF PRISONERS

*Standard Minimum Rules for the Treatment of Prisoners*<sup>15</sup>

*Rule 71*

1. Prison work must not be of an afflictive nature.
2. All prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer.

*Rule 74*

1. The precautions laid down to protect the safety and health of free workmen shall be equally observed in all institutions.
2. Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workmen.

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<sup>15</sup> Supra, note

## F. SPECIAL GROUP TREATMENT

### 1. Insane and Mentally Abnormal Prisoners

*Standard Minimum Rules for the Treatment of Prisoners*<sup>16</sup>

*Rule 82*

1. Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible.
2. Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialised institutions under medical management.
3. During their stay in a prison, such prisoners shall be placed under the special supervision of a medical officer.
4. The medical psychiatric service of the penal institutions shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.

*Rule 83*

It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure, if necessary, the continuation of psychiatric treatment after release and the provision of social-psychiatric after-care.

### 2. Women's Health Services

*Universal Declaration of Human Rights*

Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock shall enjoy the same social protection.

*Standard Minimum Rules for the Treatment of Prisoners*<sup>17</sup>

*Rule 23*

1. In women's institutions there shall be special accommodations for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made whenever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

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<sup>16</sup> Supra, note

<sup>17</sup> Supra, note

2. Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

### **3. Juvenile Health**

#### ***3.(a) Protection of Juveniles' Health and Well-being***

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>18</sup>

##### *Rule 87*

(d) All personnel should ensure the full protection of the physical and mental health of juveniles, including protection from physical abuse, sexual abuse and exploitation, and should take immediate action to secure medical attention wherever required.

#### ***3.(b) Right to Protection Against Torture***

see III INMATE RIGHTS AND TREATMENT OF PRISONERS

#### ***3.(c) Physical Environment and Accommodation***

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>19</sup>

##### *Rule 31*

Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.

##### *Rule 32*

The design of detention facilities for juveniles and the physical environment should be in keeping with the rehabilitative aim of residential treatment, with due regard to the need of the juvenile for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities. The design and structure of juvenile detention facilities should be such as to minimize the risk of fire and to ensure safe evacuation from the premises. There should be an effective alarm system in case of fire, as well as formal and drilled procedures to ensure the safety of the juveniles.

##### *Rule 33*

Sleeping accommodations should normally consist of small group dormitories of

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<sup>18</sup> General Assembly Resolution 451113 of December 1990.

<sup>19</sup> General Assembly Resolution 451113 of 14 December 1990.

<sup>20</sup> General Assembly Resolution 217 A (III) of 10 December 1948.

individual bedrooms, while bearing in mind local standards. During sleeping hours there should be regular, unobtrusive supervision of all sleeping areas, including individual rooms and group dormitories, in order to ensure the protection of each juvenile. Every juvenile should, in accordance with local or national standards, be provided with separate and sufficient bedding, which should be clean when issued, kept in good order and changed often enough to ensure cleanliness. Detention facilities should not be located in areas where there are known health or other hazards or risks.

*Rule 34*

Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply, as required, with his/her physical needs in privacy and in a clean and decent manner.

**3.(d) Clothing**

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>21</sup>

*Rule 36*

To the extent possible, juveniles should have the right to use their own clothing. Detention facilities should ensure that each juvenile has personal clothing suitable for the climate and adequate to ensure good health, and which should in no manner be degrading or humiliating. Juveniles removed from or leaving a facility for any purpose should be allowed to wear their own clothing.

**3.(e) Food**

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>22</sup>

*Rule 37*

Each detention facility shall ensure that every juvenile receives food that is suitably prepared and presented at normal meal times and of a quality and quantity that satisfies the standards of dietetics, hygiene and health and, as far as possible, religious and cultural requirements. Clean drinking water should be available to every juvenile at any time.

**3.(f) Juvenile Medical Care**

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>23</sup>

*Rule 49*

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21 General Assembly Resolution 451113 of 14 December 1990.

22 General Assembly Resolution 451113 of 14 December 1990.

23 General Assembly Resolution 451113 of 14 December 1990.

Every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmologic and mental health care, as well as pharmaceutical products and special diets as medically indicated. All such medical care should, where possible, be provided to detained juveniles through the appropriate health facilities and services of the community in which the detention facility is located, in order to prevent stigmatization of the juvenile and promote self-respect and integration into the community.

*Rule 50*

Every juvenile has a right to be examined by a physician immediately upon admission to a detention facility, for the purpose of recording any evidence or prior ill-treatment and identifying any physical or mental condition requiring medical attention.

*Rule 51*

The medical services provided to juveniles should seek to detect and should treat any physical or mental illness, substance abuse or other condition that may hinder the integration of the juvenile into society. Every detention facility for juveniles should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of its residents and staff trained in preventive health care and the handling of medical emergencies. Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties should be examined promptly by a medical officer.

*Rule 52*

Any medical officer who has reason to believe that the physical or mental health of a juvenile has been or will be injuriously affected by continued detention, a hunger strike or any condition of detention should report this fact immediately to the director of the detention facility in question and to the independent authority responsible for safeguarding the well-being of the juvenile.

*Rule 53*

A juvenile who is suffering from a medical illness should be treated in a specialised institution under independent medical management. Steps should be taken, by arrangement with appropriate agencies, to ensure any necessary continuation of mental health care after release.

*Rule 54*

Juvenile detention facilities should adopt specialised drug abuse prevention and rehabilitative programs administered by qualified personnel. These programs should be adapted to the age, sex and other requirements of the juveniles concerned. Detoxification facilities and services staffed by trained personnel should be available to drug or alcohol dependent juveniles.

*Rule 55*

Medicines should be administered only for necessary treatment on medical grounds and, when possible, after having obtained the informed consent of the juvenile concerned. In particular, they must not be administered with a view to eliciting information or a confession, as a punishment or as a means of restraint. Juveniles shall never be tested in the experimental use of drugs and treatment. The administration of any drug should always be authorised and carried out by qualified medical personnel.

**3.(g) Recreation and Sport**

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>24</sup>

*Rule 47*

Every juvenile should have the right to a suitable amount of time for daily free exercise in the open air, whenever weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installations and equipment should be provided for these activities. Every juvenile should have additional time for daily leisure activities, part of which should be devoted, if the juvenile so wishes, to arts and crafts skills development. The detentional facility should ensure that each juvenile is physically able to participate in the available programs of physical education. Remedial physical education and therapy should be offered, under medical supervision to juveniles needing it.

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<sup>24</sup> General Assembly Resolution 451113 of 14 December 1990.

## **PART TWO: PROPOSED PRISON POLICY**

### **A. MEDICAL SERVICES**

#### **1. Definitions**

Health care - medical care, dental care and mental health care, provided by registered health care professionals

Mental health care - the care of a disorder of thought, mood, perception, orientation or memory that significantly impairs judgment, behaviour, the capacity to recognise reality or the ability to meet the ordinary demands of life

Treatment - health care treatment

#### **2. Objectives and Guiding Principles**

The prison service shall provide every inmate with:

- (a) essential health care; and
- (b) reasonable access to non-essential mental health care that will contribute to the inmate's rehabilitation and successful reintegration into the community.

The provision of health care shall conform to professionally acceptable standards.

The prison service shall take into consideration an offender's state of health and health care needs:

- (a) in all decisions affecting the offender, including decisions relating to placement, transfer, administrative segregation and disciplinary matters; and
- (b) in the preparation of the offender for release and the supervision of the offender.

#### *Discussion:*

The primary purpose of health services is to treat illness, injury and disease in order to restore or improve the health of the individual. In fulfilling this goal, the prison's service ensures access by offenders to all levels of care obtainable by the population at large.

### **3. Informed Consent and the Right of Refusal**

#### ***3.(a) General***

All examinations, treatments, and procedures affected by informed consent standards in the community are likewise to be observed for inmate care. In the case of minors, the informed consent of parent, guardian or legal custodian applies where required by law.

Informed consent shall be obtained by the institutional health care professional in all instances defined by the director of health services and standing written policy. The inmate shall have the right to refuse treatment.

#### *Discussion:*

Informed consent is the agreement by the patient to a treatment examination or procedure after the patient receives the material facts regarding the nature, consequences, risks and alternatives concerning the proposed treatment, examination or procedure. Medical treatment without consent by an inmate or youth could result in legal complications. In the case of minors, the informed consent of parent, guardian or legal custodian applies when required by law.

#### ***3.(b) Unobtainable Consent***

All general hospitals have a method for proceeding with emergency treatments when informed consent cannot be obtained. The procedures used by the local general hospital will apply to persons in prison custody.

#### ***3.(c) Youth***

Where an inmate is below the age at which a person may consent to his/her own medical treatment, the director of the institution, after consultation with the medical officer, provides the needed consent and such consent extends only to preventative care, routine medical care, and emergency first aid care.

Where serious medical procedures are contemplated, parental informed consent will be obtained where possible. A general medical release form signed by a parent or guardian will not be interpreted as extending to serious medical procedures.

When a youth has undergone treatment where consent could not be obtained, the youth's parents or guardians are to be notified as soon as possible with confirmation in writing.

In cases where the parents or guardians refuse medical attention on religious, political, or other grounds, the matter must be referred to the superintendent of child welfare for action.

### **4. Range of Health Care**

#### ***4.(a) General***

The prison's service shall provide, as necessary, the following levels of care for persons in custody: self-care, first aid, emergency care, clinic care, continuous care and isolation care.

*Discussion:*

The services may be provided on-site, off-site in the community or at another prison.

Self-care - care for a condition that can be treated by the inmate and may include 'over-the-counter' type medications

First aid - care for a condition that requires immediate assistance from a person trained in first aid procedures

Emergency care - care for an acute illness or unexpected health care need that cannot be deferred until the next scheduled sick call or clinic

Clinic care - non-emergency care provided to an inmate/youth

Continuous care - care for a patient who requires twenty-four hour nursing care under medical supervision. In most situations an individual requiring such care would be placed into a local hospital. It is expected that continuous care in an institution would only occur on rare occasions.

Continuous care area - an area established within a correctional institution where twenty-four hour nursing care under medical supervision may be provided if and when required. Such an area need not be a part of the health centre, and may be used for other functions when not required for patient care.

Isolation care - care for a patient provided in a continuous care area. Such a patient may not require twenty-four hour nursing care.

An inmate/youth with an illness that requires health care beyond the resources available in the facility, shall be removed to a facility where appropriate care is available on the advice of the health care professional in consultation with the warden.

*Discussion:*

On occasion, an inmate or youth will require movement to a health care facility to deal with acute illness or reportable diseases which require isolation that an institution cannot accommodate, such as day care surgery, severe heart disease, or dental emergency.

**4.(b) Specialist Treatment**

Where a special medical program is required for an inmate/youth, the responsible physician shall develop and record an individualized treatment plan in the inmate/youth's medical file.

*Discussion:*

Special medical programs are the special measures required to address specific health problems which necessitate close medical supervision. These include seizure disorders, diabetes, potential suicide, chemical dependency, and psychosis.

In these cases, the facility must respond by providing a program directed to these medical needs. This direction may include special instruction to health care and other personnel regarding their role and responsibilities in the care and supervision of the patient.

**4.(c) Dental Services**

Basic dental services shall be provided to all inmates/youths.

*Discussion:*

Basic dental services include:

- (i) Fillings
- (ii) Extractions
- (iii) Other work necessary to attain or maintain the oral health and functioning dentition of inmates/youths

Reconstructive and cosmetic work will not be undertaken.

**4.(d) Emergency Care**

Twenty-four hour emergency health care shall be available to all inmates/youths. Plans to facilitate this shall provide for the following:

- (i) Emergency evacuation for the inmate from within the facility
- (ii) Use of an emergency vehicle
- (iii) Use of one or more designated hospital/emergency departments or other appropriate health facilities, either on or off site
- (iv) Emergency on-call physician and dental services when an emergency health facility is not located in a nearby community or where, in the opinion of the director of the institution, such on-call services are required
- (v) Security procedures that provide for the immediate transfer of inmates/youths, when appropriate

**5. Medical Examinations**

All inmates upon initial acceptance into the custody of the prison's service shall have a health assessment.

A repeat assessment by a physician, or a registered nurse, acting under the direction of a medical practitioner, is not required unless ordered by a physician.

Where a physician orders a transfer health assessment, it may be completed by a physician or a registered nurse.

*Discussion:*

The initial health assessment provides a process of structured inquiry and observation designed to identify any threat to health or safety that may present a problem to the inmate/youth or to the institution. It also provides a process whereby inmates/youths may receive immediate medical attention as required.

## **6. Private Clinician Visits**

### **6.(a) Interviews**

An inmate in a prison may be visited and interviewed by a private medical, psychiatric, or psychological clinician who is not on staff or otherwise retained by the prison's service.

#### **6.(a)(i) Medical Officer**

When an interview is requested, the clinician is to be referred to the prison's medical officer and asked to provide the following information:

1. The name of the person who will conduct the interview.
2. The name of the inmate who is to be interviewed.
3. The purpose of the interview.
4. The preferred time for the interview.
5. The expected length of the interview.

### **6.(b) Security Clearance**

The prison warden, or designate, shall also be contacted in order to:

- (a) confirm that the inmate is in the prison and will be available at the requested time, and
- (b) authorise clearance for the clinician to enter the correctional centre at the time specified.

### **6.(c) Exceptional Requests**

If the request for a visit involves anything beyond an ordinary interview, the clinician must review the specifics involved with:

- (a) the prison's medical officer, if the request relates to a medical/psychiatric matter, or
- (b) the prison's psychologist, if the request relates to a non-medical (psychological) mental health matter.

#### ***6.(d) Private Clinicians***

The fees and expenses of a private clinician are the responsibility of the inmate, not the prison's service.

Private clinicians may be billed by the prison's service for any extraordinary costs incurred by the branch as a result of exceptional requests for non-routine interviews.

Any program of treatment of an inmate advocated by a private clinician shall not be undertaken until:

- (a) the treatment program has been approved by the prison's medical officer with regard to non-medical, mental health issues; and
- (b) consent in writing has been given by the inmate or his/her parents or guardian in the case of minors.

### **7. Infection Control**

#### ***7.(a) Introduction***

Staff and inmates in prisons are recognised as being at risk for the transmission of certain infectious or transmissible diseases including tuberculosis, hepatitis and AIDS; therefore, all inmates should be considered as potentially infectious.

#### ***7.(b) Educational Program***

It is acknowledged that understanding and appropriate action are possible primarily through education. Therefore, a comprehensive educational program for staff and inmates shall be developed in all centres.

All prison wardens shall implement the program in conjunction with local health professionals. The corrections academy will, as part of recruit training, provide complimentary information on transmission control and preventive measures.

Educational programs shall be developed that discuss communicable diseases generally and individual diseases specifically (i.e. AIDS and Hepatitis)

At the minimum, the educational program shall provide:

- (a) an information package to inmates at intake, or as soon as practical thereafter, providing information on transmission control and precautions to minimize transmission of infectious disease;
- (b) as part of the orientation package provided to staff (including recruit training), information on transmission control and precautions to minimize transmission of the infection;
- (c) instruction on the proper use of items used for infection control (i.e. condoms, lubricants and bleach); and
- (d) opportunities for periodic updates to ensure staff and inmates are kept informed of current information.

### ***7.(c) Institutional Placement/Classification***

The institutional physician shall advise the warden on the appropriate handling/treatment of inmates with infectious diseases.

Housing assignments shall be consistent with normal security and/or special needs classification.

A physician will only consider special/separate housing related to infectious disease on the basis of a recommendation.

### ***7.(d) Vaccinations***

Inmates wishing to receive pre- or post-exposure vaccinations should consult with the health care professional.

### ***7.(e) Blood and Body Fluids***

#### *Procedure:*

The body fluids of all inmates shall be treated as potentially infectious.

When handling body fluids the following precautions shall be taken:

1. Wear disposable latex gloves.
2. Establish 'self help barrier' by keeping all cuts and open wounds covered with clean bandages.
3. Wear coveralls where exposure is extreme (e.g. copious bleeding).
4. Face masks shall be worn in case of gross body fluid contamination.
5. Wash hands thoroughly with soap and water after removal of gloves.
6. Clean up any spills of blood or body fluids promptly and thoroughly, using appropriate materials that shall be readily available.

7. Place all possibly contaminated clothing and other items in clearly identified, impervious plastic bags for disposal or separate cleaning.

#### **7.(f) *Protective Items***

All prison staff shall be provided with, and shall carry on their person while on duty, disposable latex gloves contained in a belt-worn pouch.

Where available, one-valve face masks (anti-reflux) shall be used whenever mouth-to-mouth resuscitation is required. Such resuscitation should not be denied if there are no masks available, since the risk of infection transmission is minimal.

The following currently approved items, identified as an infection control kit, shall be available in all centres:

- (i) Face masks
- (ii) Eye shields
- (iii) Standard issue coveralls
- (iv) Cleaning materials
- (v) Disposable latex gloves
- (vi) One-way valve (anti-reflux)

### **8. Condoms**

#### **8.(a) *General***

The prison's service recognises a duty to attempt to reduce the risk of sexually transmitted diseases amongst inmates. In meeting this responsibility, all adult prisons shall ensure that condoms are made available to inmates in their custody.

#### **8.(b) *Definition***

A condom is a prophylactic used to prevent the transmission of infectious diseases. For the purpose of this policy the term condom shall include latex rubber condoms for male inmates or latex dental dams for female inmates.

#### **8.(c) *Confidentiality***

Staff shall ensure that confidentiality is maintained to respect the privacy of inmates who request or are found to be in possession of condoms.

#### **8.(d) *Distribution***

Condom distribution methods shall be:

- (a) available in the health care unit; and
- (b) freely available in the dorms/living units.

Condoms shall be distributed to inmates free of charge.

All condoms distributed shall be latex condoms as medical research indicates this is the most effective material to prevent the transmission of infectious disease.

One-time-use packages of water-soluble lubricants (i.e. K.Y. Jelly or Lubafax) shall be supplied with condoms at the point of distribution to ensure maximum protection for users.

#### ***8.(e) Education***

Education in the use of condoms shall be provided to all inmates in accordance with infection control policy.

#### ***8.(f) Contraband***

Staff who discover unopened condoms or lubricant packages in an inmate's possession shall not confiscate these articles. Inmates suspected of using condoms to smuggle contraband shall be dealt with through the normal disciplinary process.

### **9. Testing- Communicable Diseases**

#### ***9.(a) Introduction***

Upon admission to a prison facility, testing for communicable diseases will be offered to each inmate by the intake nurse. Testing will be made available on request to each inmate both at intake and at any time thereafter while in custody.

#### ***9.(b) Voluntary Testing- Inmates***

All testing will be voluntary. Inmates wishing to be tested for a communicable disease should make their requests known to the health centre nurse or physician.

#### ***9.(c) Voluntary Testing- Staff***

Staff wishing to be tested should consult their family physician or local health unit. If the reason for the test is the result of an on-the-job incident, the appropriate compensation forms must be submitted.

#### ***9.(d) Inmate Counselling***

Pre- and post-test counselling will be given to inmates requesting HIV testing. Ongoing counselling and support for those testing HIV positive will be provided at the health centre.

### **10. Medical personnel**

#### ***10.(a) Professional Qualifications***

Local licensure, certification or registration requirements and restrictions shall apply to health personnel who provide services to inmates/youths. The warden shall place verification of current credentials on file in the facility, and a copy shall be forwarded to the office of the director of health services.

The warden shall ensure that all health professionals employed or under contract, within six months of assuming their responsibilities, receive requisite orientation including:

- (a) institutional security and control,
- (b) local institutional procedures, and
- (c) structure and organisation of the prison's service and the state justice system.

*Discussion:*

The purpose of this standard is to give orientation to those categories of employees who would otherwise not receive in-service training. All persons in the service of the organisation have a need to be conversant with institutional security, control, and procedure, as well as the structure of the organisation and its purpose.

The prison's service shall ensure that infection control information and training is available to all institutional staff of the service.

**10.(b) Nursing Services**

Nursing staff will hold five clinics per week. These will take place daily, Monday - Friday at 0700 hours until all cases are dealt with.

If there are insufficient staff to provide this service on the set days, a clinic will be held on Saturdays and Sundays from (time to be announced).

Nursing services are available on an emergency basis, twenty-four hours per day.

*Discussion:*

Such processing decreases the potential of delay when serious health problems exist. Although some prisons may not have daily health care services, this does not preclude the daily forwarding of personal health requests to the institutional health practitioner.

**10.(c) Volunteers**

There shall be written policies and procedures established for the selection, training and use of volunteers in health services.

Criteria:

1. Policies shall state, specifically, the purpose of the use of volunteers and the criteria for selection.
2. Training and orientation manuals shall be prepared for each purpose.
3. A monitoring system shall be established to evaluate the effectiveness of the activity and the volunteers.
4. Appropriate recognition shall be provided on a regular basis.

## **B. ADMINISTRATION**

### **1. Manual**

There shall be a manual of written policies and defined procedures for the delivery of health care services approved by the director of health services.

*Discussion:*

The establishment of written policies and procedures is an important component for the provision of consistent health services delivery. These policies and procedures should undergo regular review to ensure that they incorporate periodic changes in practice.

### **2. Formulary**

In accordance with local and state regulations, there shall be a formulary.

*Discussion:*

A formulary is a written list of prescribed and non-prescribed medications used within a prison facility. This does not restrict the prescribing of medications generated by outside community health care providers.

### **3. Health Records**

Health records shall be established in a prescribed format for each inmate/youth and shall be maintained at the health centre nearest to where the inmate/youth is housed.

*Discussion:*

The method of recording file entries will form part of medical policies and procedures. Files are to be housed in the institutional health medical office nearest where the inmate/youth resides. Uniformity of practice is imperative for facilitating the smooth movement of files between institutions when inmates/youths are transferred.

### **4. Quality Assurance Program**

The prison's service shall describe and implement a quality assurance program to monitor the quality of health care and ensure that acceptable standards are attained and maintained.

*Discussion:*

It is expected that the director of health services will monitor institutional practices based on a standard of current medical practices.

## **5. Confidentiality**

### **5.(a) General**

All information obtained in the course of treatment shall be confidential with the only exceptions being:

- (a) the legal and ethical obligations in response to a clear and present danger of grave injury to self or others, or
- (b) a threat to the security of an institution, or
- (c) medical information necessary to security staff for the safe management of an inmate.

The health professional shall, in all cases, explain the limits of confidentiality to the patient.

#### *Discussion:*

The principle of confidentiality protects the patient from disclosure of confidences entrusted to a health professional during the course of treatment. The law recognises both an ethical and civil liability to ensure confidentiality. The active health record is to be maintained separately from the correctional centre record.

This does not affect the health professional's ability to advise of an inmate/youths' ability to work, nor does it affect his/her ability to advise on issues related to institutional security.

### **5.(b) Psychiatric Reports**

Psychiatric reports may be made available to authorised persons when:

- (i) The author of the report gives consent
- (ii) The author of the report is not available
- (iii) The senior medical officer's opinion is that the information contained in the report requires the appropriate authorities to be advised of its contents in order to protect the public or the inmate

Informed consent of an inmate is necessary before providing health record information to any third party, unless the release of the information is otherwise authorised or required by law.

## **6. Control of Medication**

### **6.(a) Procedure**

The policy objective is to ensure that all medication and medical supplies are adequately stored, controlled, managed and administered by the health care centre, and thus within accepted management and pharmaceutical practices.

All stock of medication shall be kept in the pharmacy area of the health services centre.

All controlled medications in use are to be stored under double lock in a designated narcotic cupboard in the pharmacy of the health services centre.

All controlled medications not in use are to be kept locked in the pharmacy safe at all times. These items are to be counted on a monthly basis by the designated nurse in charge of the pharmacy and the contract pharmacist.

A formal log is to be kept in the health services pharmacy and reviewed on a monthly basis by the chief of health services. Any discrepancies are to be immediately brought to the attention of the chief of health services for appropriate action.

All narcotics and controlled drugs shall be counted by the nurse on duty in the presence of the relieving nurse, and shall be recorded and signed for by both nurses at each change of shift. Any discrepancies in the count are to be immediately identified to the chief of health services and an incident report shall be completed.

### ***6.(b) Medication Distribution Guidelines***

#### **6.(b)(i) Definitions**

For the purpose of this policy,

Centre means a prison.

Certified trainer means a nurse who has been certified by an appropriate government agency.

Director, health services means the director of health services of the prison's service.

Inmate means any person under the supervision of the prison's service.

Nurse means a registered nurse or registered psychiatric nurse either employed or under contract with the prison's service.

Practitioner means a physician, dentist, psychiatrist or dermatologist either employed or under contract with the prison's service.

Pharmacist means a pharmacist either employed or under contract with the prison's service.

Qualified personnel means those personnel of the prison's service having completed medication distribution training by a pharmacist, physician or nurse certified as a trainer.

#### **6.(b)(ii) Distribution Procedure**

Medication shall be distributed by a nurse or qualified personnel only.

All medication prescribed by a practitioner shall be labelled.

The prescription label shall be typed or machine printed, and shall include the following information:

- (i) Name, address and phone number of the pharmacy
- (ii) Prescription number
- (iii) Dispensing date
- (iv) Name and C.S. number of inmate for whom the drug is dispensed
- (v) Name of the practitioner
- (vi) Brand name of the drug, or generic name of the drug followed by the manufacturer of the drug and identification number
- (vii) Quantity and strength of the drug
- (viii) Dispensing pharmacist's initials
- (ix) Location of the inmate
- (x) Practitioner's directions for use
- (xi) Any other information required by good pharmacy practice

Making changes on any prescription label is not allowed. A practitioner shall order a new prescription if changes in dosage or administration time are required.

#### 6.(b)(iii) Over-the-Counter Medication

Standing orders authorised by the physician(s) of each centre shall be followed if distribution for over-the-counter medication to inmates is done by nurses or qualified personnel.

#### 6.(b)(iv) Medication Records

All prescription and over-the-counter medications administered by nurse-qualified personnel shall be signed for and entered on the medication administration record.

#### 6.(b)(v) Contingency Medication

The pharmacist may supply contingency medications to the correctional facility to permit the commencement of therapy upon receipt of an order from a dentist or physician and to continue the regimen until the prescription supply arrives from the pharmacy. The contingency medication is to be used only until the new prescription arrives from the pharmacy.

Contingency medications shall be stored in a locked cabinet in the health care centre.

The pharmacist should review the contents of the contingency supply every three months to ensure:

- (a) only the medications on the contingency medication list are stocked;
  - (b) the amount of medication administered matches the contingency medication records;
  - (c) there are no expired medications;
  - (d) the cards are being used for contingency doses only and not for an entire regimen;
- and

(e) all staff members are aware of the purpose and the use of the supply, and the fact that all doses must be administered only on the authorisation of the dentist or physician.

#### 6.(b)(vi) Label Information

The contingency medication list shall be available in the health care centre, and any change of medication on the list must be reviewed and approved by the pharmacy and therapeutics committee.

Any use of contingency medications must be charted in the contingency medication records. The contingency medication record, which is kept in the nursing station, must include:

- (i) A label from the pharmacy which includes the name of the correctional centre and pharmacy, as well as the quantity, name, strength, lot number and expire date of medication
- (ii) The date and time the medication was used
- (iii) The name of the inmate for whom it was prescribed
- (iv) The name of the physician or dentist who prescribe the medication
- (v) The quantity of medication given, and the blister number if using blister pack
- (vi) The signature of the nurse who administered the medication

#### 6.(b)(vii) Guideline Review

The pharmacy and therapeutics committee shall review the medication distribution guidelines once a year.

### **6.(c) Drugs**

#### 6.(c)(i) Policy Objective

To ensure health services staff are aware of their responsibilities for the care, control, recording and issuing of drugs.

#### 6.(c)(ii) Responsibilities

The chief of health services and the institutional contract pharmacist shall be responsible for the procurement, stock keeping, safekeeping and issue of drugs.

#### 6.(c)(iii) Control

Controlled drugs as well as drugs of a perishable nature shall be purchased whenever possible by local purchase order as and when required.

Barbiturates and narcotics shall only be stocked when necessary. They shall be under lock and stored in the safe at all times.

The nurse shall maintain a special register for narcotic drugs where the receipts are compulsory and audited regularly by inspectors from the department of health and welfare.

#### 6.(c)(iv) Issue of Controlled Drugs

Controlled drugs shall be strictly controlled by the nurse and issued only upon prescription of the physician.

#### 6.(c)(v) Issue of Non-Controlled Drugs

Non-controlled over the counter drugs may be dispensed by the health care nursing staff in a daily dose during medication parade. Inmates suspected of abusing such drugs are to be referred to the institutional physician for assessment. Appropriate action is to be initiated by the health care nursing staff.

Non-controlled prescription medications are to be issued to the inmate from the health services centre either by unit dose blister cards and/or daily dose and/or single dose issue. The dispensing practice will be dictated by currently accepted pharmaceutical practices.

Inmates admitted to the health services centre for observation are to turn in all their blister packs to the health services staff for single dose dispensing by the health services nurse.

The officer in charge of health care shall decide the potential of abuse of antibiotics, anti-inflammatory drugs and other drugs, in conjunction with the pharmacist. Drugs with no potential of abuse shall be issued on a unit dose card which inmates shall keep in their cell/unit and take as prescribed.

A drug for which there is potential for abuse shall be broken down into single doses by health care staff.

Inmates requiring renewal of their medical shall turn in the empty card to the health care centre.

#### 6.(c)(vi) Institutional Staff Members Use

Staff members shall not be allowed to purchase drugs from the dispensary. Staff members on duty, however, may be issued a small amount of medication (the amount and the category of medication issued shall be determined by the chief, health services or his/her delegate) under the following circumstances:

- (i) During an emergency
- (ii) When an issue of a small amount of medication will enable a staff member to remain on duty when he/she would not otherwise be able to do so

#### ***6.(d) Self-Administration of Medication***

##### 6.(d)(i) Definitions

For the purpose of this instruction,

Nurse means a registered nurse or registered and psychiatric nurse, either employed or under contract with the prison's service.

Physician means a medical doctor either employed or under contract with the prison's service.

#### 6.(d)(ii) Objectives

The objectives of the self-administration of medication are:

1. To reduce staff workload with respect to distributing medication to inmates.
2. To enhance inmate responsibility and accountability for his/her own health care.
3. To further the goal of a normalized environment within adult prisons.

#### 6.(d)(iii) Approved Medications

Only those medications approved by the director, health services may be inmate self-administered.

#### 6.(d)(iv) Role of Director, Health Services

The director of health services will:

- (a) maintain a list of approved medication and dosage forms for self-administration, and
- (b) be responsible for revising the list as necessary and appropriate in consultation with the pharmacy and therapeutics committee and the corrections health care advisory committee, as appropriate.

#### 6.(d)(v) Changes to Approved Medications

Health care of corrections staff may request a medication be added to or deleted from the self-administration list on the approved form.

#### 6.(d)(vi) Blister Pack Procedures

Medication shall only be ordered by a physician and dispensed by a pharmacist in the form of a 'blister pack' except where dosage form prohibits such packaging. Blister packs will have instructions for self-administration on the label. The prescribing physician is ultimately responsible for advising inmates on potential side effects of medication and providing instructions for self-administration.

Medication shall be administered in solid, unaltered dosage form, where possible. Such medication must be packaged in blister packs with paper foil backing. The pharmacist will identify blister packs that are self-administered with a green 'for self-administration' label. Blister packs without this green label are not to be self-administered.

#### 6.(d)(vii) Non-Compliance by Inmate

A nurse may prohibit any inmate from self-administering medication if there is evidence of non-compliance or abuse. Prison staff may also prohibit inmate self-administration, subject to review by a nurse. In such instances, medication will continue to be administered in accordance with procedures for distributing non-self-administered medication.

#### 6.(d)(viii) Contraband

Loose or non-issued medications, or tampered packaging, shall be considered contraband.

#### 6.(d)(ix) Inmate on Temporary Absence

Inmates on temporary absence will take their issued medication and will present packages for inspection upon return to the centre.

#### 6.(d)(x) Expensive Medication

Prescriptions for expensive medication may be only partially filled, at the discretion of the pharmacist, in order to reduce costs for those inmates who are in custody only a few days or who are unable to finish the medication due to uncomfortable side effects.

#### 6.(d)(xi) Refilling Prescriptions

Partially filled prescriptions will be identified with a red dot on the blister pack. Inmates are responsible for alerting health care staff when their prescription requires refilling.

#### 6.(d)(xii) Record Keeping

Health care centres shall keep a record of all self-administered medications issued which will include documentation that inmates have received and understand instructions for self-administration. The drug profile sheet in the health care file will be used to record the medication type and dosage and will be amended to include the inmate's signature.

All medication start and stop dates will be recorded by health care centres. Inmates must return all empty or unfinished blister packages to the nurse by the medication stop date.

Prison staff who seize medication or packages past the stop date must ensure they are returned to the nurse.

Health care staff must return unused medication to the pharmacy. Once inmates have handled medication it cannot be reused.

#### 6.(d)(xiii) Transfer Procedures

When inmates transfer from one centre to another, it is their responsibility to ensure self-administered medication is transferred along with the other personal effects.

A nurse at the receiving centre will review all self-administered medication accompanying an inmate.

If medication is lost in transit, the inmate is responsible for advising the nurse at the receiving centre.

With respect to non self-administered medication, the normal provisions for transfer will apply.

#### ***6.(e) Model- Medication and Treatment Times***

The following hours shall be set in the health services section for the issue of drugs and therapeutic treatments:

##### *Weekdays*

Screening: 0745-0815 hours  
Monday, Tuesday, Wednesday, Friday  
Treatments: 1300-1400 hours  
Sick Passes: 0715-0745 hours  
1215-1300 hours

The hours for morning issue on weekends and holidays are as follows:

Medication: 0800-0830 hours  
Treatments: 1330-1430 hours

##### *Medication:*

Morning: 0745-0815 hours  
Noon: 1215-1300 hours  
Supper: 1700-1800 hours  
Night: 2100-2130 hours

##### *Weekends & Holidays*

No Screening - Emergencies only  
Treatments only if indicated  
Sick passes only at medication times

##### *Medications:*

Morning: 0800-0900 hours  
Noon: 1215-1300 hours  
Supper: 1700-1800 hours  
Night: 2100-2130 hours

All other appointments by written request only.

### **7. Supplies and Materials**

The prison's service shall have a clearly defined policy for each correctional institution to determine and meet the needs of adequate health care space, equipment, supplies and materials.

The prison's service shall make infection control kits available in designated areas of each correctional centre/youth facility. The director of health services shall approve contents of such kits.

### ***7.(a) First Aid Kits***

#### **7.(a)(i) Policy Objective**

To ensure that first aid kits are available in designated areas of the institution based on need.

#### **7.(a)(ii) Responsibilities**

The following areas of the institution shall maintain first aid kits:

- |                             |                               |
|-----------------------------|-------------------------------|
| (i) All living units        | (viii) Rifle ranges           |
| (ii) All industrial shops   | (ix) Agribusiness             |
| (iii) All maintenance shops | (x) Kitchen                   |
| (iv) Main control           | (xi) Stores                   |
| (v) Principal entrance      | (xii) Administration building |
| (vi) All vehicles           | (xiii) Chapel                 |
| (vii) Gymnasium             |                               |

#### **7.(a)(iii) Contents- Model 1**

Each first aid kit shall contain the following items:

- (i) Roller gauze
- (ii) Sponges, surgical
- (iii) Triangle bandage
- (iv) Adhesive tape
- (v) Adhesive bandages
- (vi) Dressing, shell, sterile
- (vii) Gloves

#### **7.(a)(iv) Contents- Model 2**

Each first aid kit is required to contain the following:

- (i) Roller gauze
- (ii) Sponges, surgical
- (iii) Triangle bandage
- (iv) Adhesive tape
- (v) Adhesive bandages
- (vi) Dressing, shell, sterile

### 7.(a)(v) Upkeep

The health services centre shall ensure that all designated areas are supplied with first aid kits. The supervisor of each area shall be responsible for checking the first aid kits in his/her area monthly and ensuring that each kit is adequately stocked.

The health services centre will be available to restock first aid kits.

## **8. Research**

Any research involving review of inmate/youth's records shall comply with provincial and federal legal guidelines and shall be approved by the director of health services and the director of psychological services.

### *Discussion:*

Research involving the statistical analysis of characteristics of inmates/youths but not involving the administration of tests, procedures, drugs or any other outside influence, shall be dealt with as above.

Any research involving intervention into an inmate/youth's life must be approved by the above-noted individuals and prison's service management in order to ensure that said research is being carried out in a manner that does not jeopardise the rights of the individual or the integrity of the prison's service. The inmate/youth's informed consent must be obtained in all cases.

## **9. Restraints**

When the health of an inmate/youth is in jeopardy and restraints are considered as a necessary part of treatment, this information shall be forwarded immediately by the health practitioner to the local health director for consideration and, where necessary, consultation with the physician. The request and decision shall be appropriately documented. Where restraints are deemed necessary as a part of treatment, the final decision regarding restraints rests with the local director or his/her designate, who will then advise the director of health services. The health care staff shall not participate in the disciplinary restraint of inmates/youths.

### *Discussion:*

This standard applies to those situations where the safety of the individual is at risk and where restraints may be a necessary part of a health care plan. The same kinds of restraints that would be medically appropriate for the general population within the jurisdiction are likewise to be used for the medically restrained incarcerated individual. Written policy should identify authorisation requirements as well as when, where, and how restraints may be used.

## **10. Educational Programs**

Where resources are available, the prison's service shall develop educational programs that address health issues of the inmate/youth population.

*Discussion:*

Many inmates/youths in custodial facilities have special needs or educational deficits which can be addressed through specific planning.

Occasions may arise where special services are required to address the educational needs of physically or mentally impaired youth. Additionally, in order to assist inmates and youths in avoiding disease and limiting the risk factors associated with their lifestyle and the corrections environment, it may be necessary to provide educational programming which will give the inmates/youths the information needed to alter and/or manage the risk factors associated with their lifestyles.

## **11. Injuries**

### ***11.(a) Staff Injury and Industrial Disease Reports***

#### **11.(a)(i) General**

When an employee is involved in an accident, is injured, or is afflicted with a disabling industrial disease while at work and/or while on the employer's premises and which:

- (a) results in death or critical condition with serious risk of death,
- (b) requires treatment by a registered medical practitioner,
- (c) results in absence from work, or
- (d) did not involve injury, but had a potential for causing serious injury,

the employer is responsible for reporting and investigating the accident/incident in compliance with local compensation acts and health and safety regulation.

#### **11.(a)(ii) Reporting Procedures**

Minor and major injuries are to be entered in the institution's medical treatment book and the appropriate forms are to be filled out.

### 1. Application for Compensation

It is the employee's responsibility to complete and forward the form as soon as possible after being injured or disabled by industrial disease.

The form is mailed to the employee by the local compensation board office whence the completed form is being returned.

This form is used by the injured employee (or, in case of death, by the dependent) to file claim for compensation.

### 2. Employer's Report of Injury or Industrial Disease

It is the responsibility of the injured employee's immediate supervisor to complete a form and submit it to the local compensation board within three days of the employee's injury.

Copies of the completed form are to be distributed to:

- (i) Ministry safety and training officer
- (ii) Local corrections' payroll centre
- (iii) Institutional personnel officer, or regional personnel officer
- (iv) Institutional first aid attendant, nurse or medical officer
- (v) Local occupational health and safety committee chairman

Serious injuries to staff: The regional director, or his/her designate, the commissioner of prisons, and the director of inspection and standards shall be notified by telephone immediately in the case of serious assaults and no later than the commencement of the next working day in the case of serious injuries to staff.

Serious injury is defined as one requiring hospitalisation rather than first aid treatment.

Staff fatalities: When an employee dies while on duty, immediate notification by telephone shall be given to the following:

- (i) Regional director or his/her designate
- (ii) Commissioner of corrections
- (iii) Director, inspection and standards
- (iv) Ministry safety and training officer
- (v) Local compensation board, accident prevention branch
- (vi) Public service commission

This immediate notification is to be followed by the completion of the usual compensation board forms in those fatalities caused by accident or industrial disease.

### 3. First Aid Report

This form is to be completed by the first aid attendant, nurse, medical officer or other personnel who treated the employee at the time of injury.

### 4. Statement of Employer

This form is to be completed by the immediate supervisor of the injured employee as soon as the employee returns to work.

This form is used to terminate compensation payments to the employee.

### 11.(a)(iii) Investigating Procedures

When an employee is afflicted with a disabling industrial disease, is injured, or is involved in an accident, even though the accident did not involve injury but had a potential for causing serious injury, the accident/incident is to be investigated by a joint union/management team.

This team is comprised of a minimum of two members of the local occupational health and safety committee, one bargaining agent, and one management representative, all of whom are knowledgeable in the type of work involved.

The purpose of the investigation is to identify the causative factors and circumstances of an accident/incident and recommend how such occurrences might be prevented.

The immediate supervisor of the employee involved in the accident/incident is responsible for following up on the occurrence and assisting the investigating team in making recommendations.

The team's findings and recommendations shall be recorded on a joint union-management accident/incident investigation report which shall be distributed to:

1. Ministry safety and training officer
2. Local worker's compensation board office
3. Regional personnel officer
4. Bargaining agent
5. Local occupational health and safety committee

### ***11.(b) Inmate Injury Reports***

#### 11.(b)(i) Injury Report

In the event of an injury to an inmate, the officer supervising the inmate shall complete a report which shall include a signed statement by the inmate on the back of the form, and shall submit it to the senior officer in charge of the unit on any given shift.

#### 11.(b)(ii) Details of Injury

The supervising officer shall write a brief narrative report covering details of the injury and how it occurred. The 'unit' referred to should indicate the name of the institution where the injury took place. The 'nature of injury' should describe the injuries sustained by the inmate as accurately as possible.

#### 11.(b)(iii) Comments of Senior and Medical Officer

The senior officer in charge of the unit and the medical officer in attendance shall add their comments to the medical report, indicating extent of injury and treatment given and/or proposed and forward the report to the prison warden within twenty-four hours of the injury.

#### 11.(b)(iv) Warden's Comments

The warden shall add his/her comments and indicate whether a board of inquiry is recommended.

#### 11.(b)(v) Distribution of Report

Upon completion, a copy of the injury report shall be forwarded to:

1. Warden
2. District director
3. Ministry safety and training officer
4. Medical office file

#### 11.(b)(vi) Notification

The regional director, or designate, the prison's commissioner and the director, inspection and standards shall be immediately notified by telephone in the case of inmate deaths and serious injuries. This verbal communication is to be followed by the usual report of inmate/youth injury completed by all involved on-duty staff and distributed in the usual manner with additional copies being sent to those notified verbally.

Serious injury is defined as one requiring hospitalisation rather than first aid treatment.

### ***11.(c) Board of Inquiry- Inmate Injuries***

#### 11.(c)(i) Members

The members of a board of inquiry shall consist of the prison warden or deputy warden as chairperson and two or three senior staff members.

### 11.(c)(ii) Mandatory Inquiry

Following an injury to an inmate, a board of inquiry shall be held within one week of the injury, when:

- (a) the injury is likely to result in a permanent disability or handicap to the inmate,
- (b) an inmate dies, or
- (c) there is a possibility that procedures have not been followed, or that they are inadequate, or there is negligence.

### 11.(c)(iii) Medical Prognosis

The board of inquiry will be held even though the final medical prognosis may not be completed and the final report may have to wait until the medical report is available.

### 11.(c)(iv) Inmate Statement

A signed and dated statement, giving the inmate's version of the accident and treatment administered, shall be obtained as soon after the accident as the condition of the inmate will allow.

### 11.(c)(v) Witnesses

A signed and dated statement shall be obtained from all staff and inmate witnesses as soon after the accident as possible.

## ***11.(d) Proceeding of Board of Inquiry***

A record of the board of inquiry's proceedings is to be forwarded to the regional director and the prison's commissioner.

### 11.(d)(i) Record

A complete record will consist of the following:

1. Injury report carefully and accurately filled out within twenty-four hours of the injury. All comments and narratives dated and signed.
2. Complete record of the hearing, which may be transcribed if necessary.
3. Statements from the injured inmate, staff witnesses and inmate witnesses.
4. A dated and signed statement from the medical officer attending the injury, giving the prognosis, plus copies of laboratory reports, X-ray reports etc., if these services are used.
5. The regular form for boards of inquiry, listing members, evidence of witnesses, treatment given and conclusions of the board of inquiry.

### 11.(d)(ii) Chairperson

The chairperson of the board of inquiry is responsible for presenting an accurate, consistent and fully documented account of how the injury occurred, the treatment administered or planned for the future, and what precautions can be taken to prevent similar injuries from occurring again.

## **C. ACCOMMODATION & HYGIENE**

### **1. General**

The service shall take all reasonable steps to ensure that prisons, the prison environment, the living and working conditions of inmates and the working conditions of staff members are safe, healthful and free of practices that undermine a person's sense of personal dignity.

### **2. Cells**

Cells/secure sleeping rooms shall contain a minimum, utilisable floor area of 8 square metres.

Every cell/secure sleeping room in a correctional centre shall be equipped, at a minimum, with the following:

- (i) Continuously available hot and cold water, servicing a fixed basin
- (ii) Toilet designed for the mechanical elimination of human waste
- (iii) Artificial light source which is both occupant and centrally controlled
- (iv) A bed frame elevated at least 3 metres from the floor at the top of the mattress
- (v) A mattress designed in specific recognition of fire dangers in secure settings
- (vi) A table and chair designed to compliment each other
- (vii) 0.3 square metres of fixed shelf space
- (viii) Three fixed clothing hooks
- (ix) Direct natural light source
- (x) All furnishings and fixtures utilised in cells or security rooms used specifically for special security containment shall be designed and installed in a manner to prevent user suicide and to provide safety measures to all individuals

Toilets, urinals, sinks and showers, where communal, exist in ratio of one of each device for every ten prisoners.

### **3. Bedding - Working Model for bedding exchange**

Once each week, all sheets and pillowcases shall be exchanged for freshly laundered items. On Tuesdays in units 1, 2 and 3 and on Thursdays in units 4, 5 and dissociation. Each inmate shall leave his/her bedding on the floor inside his/her cell door, and the laundry manager shall arrange to have them replaced with clean ones on a one-for-one basis.

Blankets shall be exchanged for clean ones once every five weeks. One unit's blankets shall be exchanged each week, along with that unit's sheets. The laundry manager will ensure all concerned are notified of the schedule.

#### **4. Bleach**

As a continuum of the prison's service policies regarding the control of infectious diseases, all adult prisons shall ensure that filtered household bleach is available and accessible for inmate use.

##### ***4.(a) Purpose***

This policy provides guidelines for the distribution of filtered bleach in adult correctional centres.

##### ***4.(b) Strength***

To be fully effective in reducing the spread of infectious disease, bleach used as a disinfecting agent must be full strength.

##### ***4.(c) Distribution***

Filtered bleach shall be distributed to inmates in secure centres in 30ml bottles. Open custody centres may provide larger quantities.

Each prison shall establish a policy that details the method of bleach distribution based upon the following principles:

1. Freely available- in secure centres filtered bleach shall be available in the living units and may also be available through health care. Replacement supplies shall be checked on a daily basis and restocked as required. A minimum of five bottles shall be available in each living unit. In open centres, filtered bleach can be in a centrally located, easily accessible location.
2. Readily accessible- there shall be a designated location in each secure living unit or open custody centre (e.g. ablutions, laundry, kitchen area, etc) where replacement supplies are kept for exchange. Where health care is involved bottles of filtered bleach for distribution shall be available at all medication distribution times, during regular visits to the health care centre and during unit rounds.
3. Replacement basis- filtered bleach shall be available in the designated distribution areas where inmates can return empties and obtain full bottles.
4. Ensures anonymity- the distribution (exchange) location should be located in such a manner as to afford maximum anonymity and not require the inmate to approach a correctional officer to obtain bleach.
5. Minimises risk of injury- filtered bleach for distribution to inmates in secure centres shall be in the prescribed 30ml bottles. All bottles shall be labelled to indicate that they

contain filtered bleach and shall include the date of decanting. If the option of self-decanting is used in open centres, eye protection funnels and proper pouring decanters should be employed to minimise spills. Rubber gloves should be provided to protect against skin contact.

#### ***4.(d) Education***

Education in the use of filtered bleach as a disinfectant shall be provided to all inmates.

Information regarding the proper methods of using filtered bleach as a disinfectant shall be provided by health care staff and posted in each unit.

#### ***4.(e) Contraband***

A single 30ml bottle of filtered bleach shall not be considered as contraband. Inmates in possession of larger quantities (more than one portion of the amount distributed) shall be considered to be in possession of contraband.

Although some items commonly subject to disinfecting with bleach are contraband (i.e. hypodermic needles, syringes, tattoo kits, etc.), the fact that an inmate is using bleach does not provide a prima facie case to establish drug usage or other unacceptable activities.

#### ***4.(f) First Aid***

The following first aid steps should be used in the event that anyone is splashed with bleach:

1. Skin - remove any contaminated clothing and wash contacted areas thoroughly.
2. Eyes - flush thoroughly with water for fifteen minutes while holding eyelids open.
3. Ingested - drink warm water; do not induce vomiting.

Health care should be immediately advised of any incidents involving injuries related to bleach.

#### ***4.(g) Central Supply***

All filtered bleach for distribution to inmates in secure centres shall be obtained from the designated central supplier. This will ensure province-wide consistency in the concentration, the bottle size and style as well as its application of appropriate labelling.

Bottles and caps will be of a style to reduce the ability to squirt the contents by squeezing the bottle.

#### ***4.(h) Posted Notices***

Each centre will ensure that a notice is posted in each living unit that clearly indicates that bleach is a corrosive and that caution should be taken to avoid contact with eyes and skin. The posting

shall also indicate that bleach should not be ingested or mixed with any other substance except water.

## **D. FOOD SERVICES**

### **1. Quality of Food**

Each correctional centre shall have a program of food services that exceed dietary allowance specified in the food guide to ensure that the food served programs offer meals which are attractive, palatable, nutritionally adequate and prepared under sanitary conditions.

Food products that are produced within the prisons for institutional consumption shall be of good quality and delivered in a condition suitable for optimum food service.

Three meals shall be served in a twenty-four hour period at times recognised as normal, and at least two of these meals shall include hot food.

Food shall be prepared and served so that flavour, texture, temperature, appearance and palatability are considered.

### **2. Meal Planning**

The prison's service shall have policy and procedures to govern menu planning and approval. The policy addresses:

- (a) minimum prior time for presentation of planned menus to the branch manager responsible for the food service program;
- (b) responsibility for approval of planned menu;
- (c) posting of approved menu; and
- (d) substitution(s).

### **3. Youths in Confinement**

During confinement apart from the general population, an inmate or youth shall receive meals at the times and of the type normally received by the inmates and/or youths in the general population of the institution.

### **4. Food Service Personnel**

Meals shall be prepared in accordance with instructions provided by qualified food service personnel.

### **5. Dining Area**

Each prison shall provide one or more suitable areas for the consumption of food. Meals will only be consumed in cells, rooms or other personal living spaces where security, control or discipline require that an inmate or youth not join the general population during meals.

## **6. Inspections**

A provincial medical health officer or a public health inspector shall inspect all food service areas, at least annually.

## **7. Sanitary Measures**

All food service programs shall provide for the elimination of vermin and pests.

All food service personnel, including inmates assigned to food services work, shall be trained in proper sanitation procedures. Further, every food handler shall:

- (a) observe good personal hygiene,
- (b) wear clean garments and clean footwear, and
- (c) wash his/her hands thoroughly before commencing duty and after using the toilet.

As well, people with open infected wounds or who are not otherwise in good health should not be part of the food service program.

A comprehensive program shall be in place to maintain the level of sanitation of all food service facilities and equipment.

## **8. Fire and Safety Requirements**

Food service program facilities and equipment in each correctional centre shall meet local fire and safety requirements.

## **9. Inmate Meals**

Inmates from the living units shall eat their meals in association in the dining halls.

It shall be the responsibility of the food services supervisor and his/her assistants to provide food for the inmates from well-balanced meals.

Meals served in the dining rooms shall be inspected by the officer in charge of the institution or his/her delegate, and on an irregular basis by the senior duty officer and the institution physician.

Inspecting officers shall record their assessment of the quality and quantity of the meal on the form provided for this purpose.

### ***9.(a) Working Model- Meal Times***

#### *Breakfast Times*

0800 hours - 0845 hours

0845 hours - dining halls cleared

*Lunch Times*

1200 hours - 1245 hours

1300 hours - dining halls cleared

*Supper Times*

1630 hours - 1745 hours

1800 hours - dining halls cleared

## **10. Officers' Meals**

Meals will be provided to staff only in accordance with existing collective agreements, or when authorised by the director, for security and program requirements.

Prison service employees will only be given a meal if they are required to be on duty without an unpaid meal period for the full duration of their shift.

A noon meal shall not be served to an officer unless his/her working hours span the noon hour. Meals, other than at noon, may be authorised for officers working overtime by the officer authorizing the work.

## **11. Sanitary Control**

The food services supervisor shall ensure that clean and sanitary conditions exist in the dining and food preparation areas at all times. As part of the process, refrigerator and dishwasher temperatures shall be checked daily to ensure that they meet health standards. These temperatures shall be recorded in a daily log to allow for inspection.

## **12. Inspections**

### ***12.(a) Daily Inspections***

The food service officer shall conduct, between 0800 and 1600 hours, daily quality assurance and inventory inspections of each residence by:

- (i) Checking proper storage and inventory levels or rations
- (ii) Checking cleanliness and condition of refrigerators, dishwasher, stoves and small kitchen appliances
- (iii) Checking the overall cleanliness of the kitchen work area and dining room
- (iv) Checking for damage of all food service property caused through intentional abuse
- (v) Conduct follow up inspections to ensure compliance and correct any deficiencies

### ***12.(b) Annual Inspections***

A provincial medical health officer or a public health inspector shall inspect all food service areas, at least annually.

### **13. Staff Responsibilities**

#### ***13.(a) Orientation Programs***

The prison's service shall ensure that workers engaged in food service programs receive, prior to or at least at the outset of service, an orientation designed to familiarize participants with:

- (a) the operations and responsibilities of the prison's service;
- (b) measures designed to safeguard the safety, security and discipline of prison's service facilities, including the prevention of the presence and elimination of contraband; and
- (c) the respective roles and responsibilities of the prison's service employees and the employees of food service contractors.

#### ***13.(b) Evening Staff***

The staff working on the evening shift shall ensure all food preparation knives are returned to the knife storage rack.

### **14. Inmate Fasting**

#### ***14.(a) Definition***

For the purposes of this policy a 'fast' is defined as a complete and voluntary abstinence from nourishment, by an inmate acting on the basis of unimpaired and rational judgment concerning the consequences of such action.

#### ***14.(b) Right to Fast***

Even though prison staff are charged with providing 'necessities of life' and the safekeeping of inmates within the correctional centre, inmates do have the right to fast, even to the point of their own death.

Provided the inmate is:

- (a) of the age at which a person may consent to his/her own medical treatment,
- (b) mentally competent, and
- (c) conscious,

staff shall not interfere with an inmate's exercise of this right.

#### ***14.(c) Authority***

Prison policy regarding inmate fasting shall be based upon relevant provisions of the charter and the criminal code, as well as:

- (i) The general consent standards for medical practice
- (ii) The position taken by college of physicians and surgeons regarding forced feeding

#### Local example

1. One cannot treat a person against his/her will, other than under court order and the requirement of consent is an over-riding consideration.
2. One cannot feed against the will of a person, but as a precautionary measure, the most that can be done is to place food and water available to the person and ensure the person is made aware of the consequences of his/her action.
3. The International Covenant on Civil and Political Rights adopted by the General Assembly of the United Nations, which in Article 10.1 states:

“ . . . all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person” which is interpreted to mean that a person, while of sound mind has the right to refuse medical intervention and has the right to fast, even to the point of his/her own death;

4. The Guidelines for Medical Doctors concerning Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment in relation to Detention and Imprisonment adopted by the 29th Medical Assembly, Tokyo, Japan in October 1975, which includes the following declaration:

“Where a prisoner refuses nourishment and is considered by the doctor as capable of forming an unimpaired and rational judgment concerning the consequences of such a voluntary refusal of nourishment, he or she shall not be fed artificially. The decision as to the capacity of the prisoner to form such a judgment should be confirmed by at least one other independent doctor. The consequences of the refusal of nourishment shall be explained by the doctor to the prisoner.”

#### ***14.(d) Notification***

When it becomes known that an inmate is fasting, it is the responsibility of prison staff to ensure notification is given to:

- (a) the prison warden, and
- (b) the clinician responsible for the health care of the inmates in the correctional centre,

either immediately if the inmate has already been fasting for twenty-four hours or more or within twenty-four hours if the inmate has just commenced fasting.

Within twenty-four hours of receiving notification, the warden shall ensure close family members, friends, or relatives of the inmate are contacted and apprised of the situation.

Furthermore, the commissioner shall be notified of fasting inmates as soon as the fast:

- (a) becomes a matter of public information,
- (b) seriously disrupts the management of the prison, or
- (c) reaches the tenth day;

whichever occurs first.

#### ***14.(e) Surveillance***

While the inmate continues to fast, prison staff shall:

1. Place food and water where it is available to the inmate at all times.
2. Keep the inmate under close observation, maintain frequent communication with the inmate and encourage the inmate to eat.
3. Encourage frequent visits and discussions with close family members, friends or relatives who may assist in persuading the inmate to break his/her fast.
4. Inform medical staff immediately of any deterioration in the inmate's state of health, especially loss of consciousness.

#### ***14.(f) Transfer***

Where an inmate becomes unconscious, or where the clinician determines that there exists an imminent threat to the life of an inmate, the prison warden on the advice of the clinician shall transfer the inmate to a hospital facility by way of an emergency medical absence.

#### ***14.(g) Record Keeping***

While an inmate is fasting, prison staff shall keep a record including:

- (i) All meals missed or refused by the inmate
- (ii) The inmate's stated purpose of his or her fast
- (iii) The names and telephone numbers of close family members, friends or relatives who may assist in persuading the inmate to break his/her fast
- (iv) The inmate's response to encouragement by staff, and other persons in contact with the inmate
- (v) The inmate's general appearance and condition

The purpose of these records is twofold:

1. To provide the clinician with relevant information to assist him/her in managing the health of the fasting inmate.
2. To ensure there is a detailed and accurate record of how the case was handled.

## **E. RECREATION & SPORT**

### **1. Physical Plant**

Secure prisons shall incorporate, within the security perimeter, an all purpose, outdoor athletic field for use in team sports. The field should be primarily landscaped with grass and be adequate for soccer and football.

Secure prisons shall incorporate, within the security perimeter, an outdoor activity area or areas to facilitate both passive and active recreational opportunities. These areas may also be designated fire refuge areas and shall be sufficiently large to contain the entire inmate population at any one time allowing at least 3.7 square metres per person.

Secure custody centres shall incorporate an indoor gymnasium.

## **F. SPECIAL GROUP TREATMENT**

### **1. Insane and Mentally Disordered Prisoners**

#### ***1.(a) Policy Objective***

To provide guidelines regarding action taken for housing of the identified mentally ill and/or mentally challenged offenders within the institution.

#### ***1.(b) Consultation***

There shall be joint consultation between senior prison officials and relevant health care personnel prior to taking action regarding the identified mentally ill and/or mentally challenged offenders in the following areas:

- (i) Housing assignments
- (ii) Program assignments
- (iii) Disciplinary measures
- (iv) Transfers to other institutions

#### ***1.(c) Action to be Taken***

This consultation is essential so that all concerned groups are able to make sound decisions concerning housing arrangements, work assignments and disciplinary management for offenders identified as having special needs.

#### ***1.(d) Transfers***

Arrangements are to be made as soon as possible to transfer acutely ill offenders to an appropriate facility if they can not be adequately stabilized in the institution in a reasonable period of time.

When it is necessary to transfer an inmate to a mental health facility, the prison warden in consultation with a clinician upon the written approval of the district director, may effect the transfer as follows:

### *1. Sentenced Inmates*

(a) By preparing the following documents and sending them to the director of a provincial mental health facility:

- (i) Two certificates completed by two physicians
- (ii) An application for admission

Upon receipt of the above documents, the director of the mental health facility may admit the inmate to the facility for treatment.

Where application is made directly to the director of a mental health facility, and the inmate is accepted for admission, the correctional centre making the application shall release the inmate by way of an emergency or non-emergency medical temporary absence authorisation permit.

Where the inmate is not well by the time his/her sentence expires, the director of the provincial mental health facility will re-certify him/her and retain him/her under the mental health act. In due course, when the inmate is recovered, he/she will be released directly from the mental health facility. It is for this reason that the personal effects should always accompany any inmate transferred to a mental health facility.

### *2. Remanded Inmates*

Where the behaviour of an inmate on remand is indicative of mental illness, the services of a medical doctor should be obtained so that he/she can form an opinion as to whether the inmate is in need of psychiatric care. Depending upon circumstances, crown counsel may decide to return the inmate to court:

- (a) to enter a stay of proceedings and have the inmate committed,
- (b) to seek a thirty day remand for a psychiatric assessment, or
- (c) for a finding of unfit to stand trial.

In the event of (a) or (b) having occurred, the inmate would be escorted to the forensic psychiatric institute.

## ***1.(e) Mental Health Committee***

### **1.(e)(i) Policy Objective**

To provide guidelines covering the procedures of the mental health committee.

### **1.(e)(ii) Responsibilities**

The mental health committee shall be comprised of the following members:

- (i) Coordinator, case management
- (ii) Chief, psychological services
- (iii) Coordinator of mental health or mental health therapist
- (iv) Senior prison official

#### 1.(e)(iii) Meetings

Meetings will be held at a minimum of once a month.

#### 1.(e)(iv) Purpose

To make recommendation for the utilisation of and the prioritisation of both internal and external resources for mental health.

Administrative tasks reviewing the efficiency and effectiveness of current systems.

Review and recommend new internal and external mental health programs.

Provide information to institutional staff regarding criteria and appropriateness of referrals.

#### 1.(e)(v) Evaluation

The committee shall also be the final recommendation stage for any mental health program before submission to senior policy committee.

The committee may also be called upon, for specially referred inmates to evaluate proposed management/treatment plans.

## **2. Transsexual Inmates**

### ***2.(a) Introduction***

Transsexuals are persons genetically of one gender with a psychological urge to belong to the other gender. These persons are characterized by their feeling of discomfort and inappropriateness about their anatomical gender and by persistent behaviour generally associated with the other gender. There is usually a desire on the part of the individual to alter his or her sex organs in order to function as a member of the other gender.

After a psychological, psychiatric, physical and social assessment, a transsexual living in the community in a stable environment would normally progress through a treatment program as follows:

1. Psychological/psychiatric evaluation to assess the degree of the person's transsexuality.

2. The person lives as a member of the other gender (e.g. dress, hairstyle, etc.) for a period of time (e.g. a few years).
3. Hormonal therapy is initiated (causing changes in facial and body hair growth, breast structure, etc.).
4. Surgical removal of sex organs (e.g. castration- removal of testes or ovaries, hysterectomy-removal of uterus, etc.).
5. Surgical reconstruction of sex organs (e.g. penis, vaginal cavity, etc.).
6. Application is made to the courts and vital statistics branch of the ministry of health for official sex change on birth certificate.

### ***2.(b) New Admissions***

Inmates claiming to be transsexuals, who are admitted to prison without previous medical assessment, may request a medical assessment in order to determine:

- (a) the validity of a claim of transsexualism, and
- (b) appropriate placement in a male or female prison.

Correctional centre staff may also request such assessment.

### ***2.(c) Re-admissions***

On re-admission, where a previous medical assessment had been carried out, a reassessment shall be performed to determine the extent of the inmate's progress in the treatment program.

### ***2.(d) Treatment***

As the required levels of personal support may not be present in a prison setting, it is not expected that progression in the treatment program will occur while the inmate is in custody. However, the inmate will be maintained at the current level of treatment (e.g. if the inmate was taking hormones in the community, the medication will be continued in custody).

### ***2.(e) Refusal to Consent to Medical Assessment***

If an inmate refuses to consent to a medical assessment, the inmate shall be placed in a male or female prison according to the best judgement of medical staff based on the extent of the inmate's apparent progress in the treatment program.

### ***2.(f) Procedure for Medical Assessment***

Upon request for a medical assessment, the nurse shall be informed and arrangement shall be made for the inmate to be assessed by a medical doctor and psychologist and/or psychiatrist as soon as possible.

While awaiting such assessment, the inmate shall be held separate from the general population in the prison to which the inmate was admitted.

Following the assessment, the medical doctor shall inform the correctional centre director of the recommended appropriate placement.

Treatment of those confirmed as transsexuals shall follow established medical practice.

### ***2.(g) Placement Criteria***

Transsexuals who have not progressed beyond Step 3 in the process shall be placed in a correctional centre consistent with their originating genders.

## **3. Potential Suicide and Para-Suicidal Inmates**

### ***3.(a) Policy Objective***

To provide guidance and procedures to staff for the detection of potential suicide and para-suicidal inmates.

To ensure that prompt action is taken in the event of an inmate self-inflicted injury and/or suicide attempt.

Set forth the post incident actions to be completed after each self inflicted injury and/or suicide attempt.

### ***3.(b) Preamble***

A principle of prison's service policy focuses on providing safe custody for all inmates in prisons. The purpose of this policy is to assist prison staff in preventing inmates from attempting and committing suicide by providing guidelines and procedures for:

1. Identification of suicidal inmates.
2. Assigning responsibilities to staff.
3. Indicating preventative measures to be taken.

### ***3.(c) Identification of Suicidal Inmates***

Research indicates that suicides and attempts at suicide in prisons may occur at any time; however, several general principles do provide a focus:

1. The probability of self-destructive behaviours in proportion to the level of security with the greatest number of suicides and suicide attempts occurring in secure settings.
2. The greatest number of suicides occurs in general population cells, however, protective custody, observation and segregation areas have the highest suicide rates (in

proportion to the number of inmates contained). Thus these areas require greater attention from a suicide prevention point of view.

3. Most suicides do not occur at the time of admission or shortly thereafter, but later and usually among the remand population as court appearances approach or trials begin, especially on serious offences.

4. Sentenced inmates may become suicidal at any time in their sentence through any number of developments ranging from the separation of a wife/husband (girl/boyfriend), loss of a significant community resource, inmate pressure, illness, or other factors that impact on the inmate's adjustment to imprisonment.

The key to inmate suicide prevention is the noting and reporting of abnormal behaviour, social withdrawal, verbal references to self-harm, depression, and reaction to setbacks.

### ***3.(d) Inmates at Risk***

The following guideline may help identify potentially suicidal inmates.

1. Have previous suicide attempts.
2. Have recently lost wife, girlfriend, husband or significant friend.
3. Have previous psychiatric history and are currently depressed.
4. Begin verbalizing about self-harm or suicide to staff or inmates.
5. Are remanded awaiting trial facing serious charges.
6. Have no community resources (transients, no visitors, and no supports).
7. Are contesting deportation and face severing current relationships and possible consequences in home countries.
8. Begin giving away their personal effects.
9. Have normally been involved socially with other inmates and institutional programs, then suddenly, for no apparent reason, turn inward and discontinue this association with others.
10. Display an unusual 'apparent calm' which is inappropriate given current circumstances.

The coordinator of case management will make available to the mental health coordinator a list of individuals being transferred.

The reception officer or the assigned case management officer shall review all new inmate case management files to determine potential suicide and/or self inflicted injury cases.

The coordinator of mental health or his/her delegate will review the inmate's medical files.

The coordinator correctional operations shall attempt to determine if inmates being transferred in have a history of suicide attempts.

The reception officer will closely monitor reception inmates and report any unusual behaviour to the appropriate area (psychology, case management, health care etc.).

All staff are responsible for monitoring and reporting on inmates identified as suicidal/self-injury cases and those inmates exhibiting unusual behaviour. The reporting of such cases must be immediate so intervention may be initiated with the goal of preserving life.

### ***3.(e) Information Sources***

It is important to identify suicidal inmates as soon as possible through Branch information systems and coordinated staff communication.

The following are sources of information to help identify potentially suicidal inmates:

1. Admission  
(Advice from police or sheriffs, admission interview, staff knowledge of the inmate, previous progress logs, and provincial case file C.A.R.E. system comment screen)
2. Probation file  
(Pre-sentence reports- community reports)
3. Current observations  
(Progress log- behaviour)
4. Medical file  
(Psychiatric reports- report of self-harm)
5. Mail/phone calls  
(‘Dear John/Jane letters’- talking of suicide)
6. Court decisions  
(Found guilty, lengthy sentence, deportation, divorce, child custody, transfer)
7. Family history  
(Previous suicides among family or friends and warnings from family or visitors)
8. Inmates  
(Inmates often tip staff on suicide risks)

### ***3.(f) Staff Responsibilities***

Staff members shall discuss their concerns regarding any inmate they feel may be self-destructive, or any information coming to their attention regarding self-destructive or unusual behaviour, with the director or officer in charge. These observations and discussions are entered on the inmate's progress log.

### ***3.(g) Officer in Charge Responsibilities***

The officer in charge of the shift shall coordinate information on 'at risk' inmates and is responsible for:

- (a) making the determination as to the identification of the inmate as 'being at risk',
- (b) advising medical/psychiatric services,
- (c) taking steps to increase surveillance of the inmate and/or move the inmate to a location where surveillance is facilitated,
- (d) tagging the file, as 'possible suicidal' (manipulative or not), and
- (e) entering the inmate's name on the unit's 'at risk list' and posting for staff to note at shift commencement.

The officer in charge will thus advise his/her staff on shift, of those inmates requiring special attention and those identified as 'at risk'. In the course of time, the director, in consultation with his/her staff and medical/psychiatric personnel, will decide when and if the 'at risk' designation should be removed.

Where an inmate's 'at risk' designation is removed, the comment screen or progress log should note 'at risk' history for future reference.

### ***3.(h) Notification***

Inmates identified from file information as having previously attempted suicide or self-injury shall be brought to the attention of:

- (i) Warden/deputy warden
- (ii) Coordinator correctional operations
- (iii) Coordinator of mental health or designate
- (iv) Psychology department
- (v) Case management officer
- (vi) Duty unit manager who shall ensure that the information is disseminated at morning meetings and shift briefings

### ***3.(i) Intervention***

Any staff member becoming aware of or observing self-injurious behaviour on the part of an inmate shall immediately notify the chief of health services, psychologist and the duty manager or supervisor on duty by telephone, with follow-up written documentation.

The duty manager or supervisor shall ensure that staff are informed of the situation.

A review of active risk cases by the chief of health services, psychologist, and the case management officer will be completed and a plan of action established indicating areas of concern and monitoring required. A memorandum will be sent to the deputy warden and a copy placed on the inmate's medical file.

In cases of significant suicidal risk, the mental health services or duty nurse or the psychologist shall interview the inmate within one working day, sooner if necessary, and determine the level of monitoring and intervention required and consult with the duty manager or supervisor in charge.

The psychologist or mental health coordinator shall complete a written report indicating level of monitoring, cause of behaviour, medication and its effects, possibility of future attempts and past history of attempts.

The duty manager or supervisor in charge shall ensure that segregation staff are fully briefed when suicide watch is established in dissociation or hospital observation cells. The warden or delegate will be advised of any self-inflicted injury that occurs during off-hours.

### ***3.(j) Follow-up/Tracking***

The mental health nurse or duty nurses shall ensure that the inmate is interviewed daily to reassess immediate suicide factors.

The termination of the suicide watch shall be at the discretion of the psychologist/ psychiatrist or mental health coordinator or designate initiating the watch, in consultation with the duty manager or supervisor in charge. The psychologist or health care officer shall complete a memorandum outlining the rationale for termination and follow-up treatment. A copy of this report shall be placed on the offender's medical file with a copy given to the deputy warden.

Relevant resource persons may be contacted and utilised as necessary during the critical period while the inmate remains suicidal. The duty manager or delegate will be responsible for coordinating the services of these resource personnel.

All inmates showing active risk shall be brought forward at the segregation review committee and at the mental health committee meeting where treatment strategies shall be established and monitored.

The training of staff in the recognition of potentially suicidal inmates shall be on-going and shall be the responsibility of the staff training officer of the prison.

Prior to the completion of their shifts, all staff involved with the incident shall complete a report. The correctional supervisor in charge and/or duty manager shall review all reports and ensure that all information is available prior to the completion of their shifts.

### ***3.(k) Preventative Action***

Once an inmate is brought to the attention of staff members as being potentially self-destructive, efforts should be made to increase communication with the inmate at risk. Merely increasing surveillance may not solve the problem or prevent suicide.

Similarly, reliance on mechanical surveillance, (e.g. television monitoring) and/or removal of all materials that could be utilised in suicide attempts, will not be as effective as personal contact.

An option staff may wish to consider, is placing the inmate in a dormitory setting to increase his/her contact with other inmates if they might represent support.

Moving the 'at risk' inmate to a special observation or a health care unit, if available, may be appropriate if other strategies are ruled out or are deemed ineffective.

### ***3.(l) Transfer 'At Risk' Inmates***

When an at risk inmate is transferred within the prison system,

- (a) the receiving institution should be informed by a telephone call (the sending institution providing as much detail as possible to ensure adequate care is provided at destination), and
- (b) a classification alert (C.A.) should be added to the case file.

### ***3.(m) Release Procedures for Suicidal Inmates***

When an inmate has been listed as a suicide risk during his/her period of incarceration and particularly when he/she remains 'at risk' at time of discharge, liaison staff should alert community resources.

Staff filing inmate release forms provide information regarding suicide and 'at risk'?potential to local police.

Other forms similarly alert probation supervisors in the case of those being released have probation orders to follow incarceration.

In cases of serious risk, local 'suicide watch' or suicide follow-up groups could be advised of the offender's release.

The 'at risk' inmate should be provided with information and telephone numbers of local suicide assistance groups.

### ***3.(n) Contingency Plans***

Upon discovery of a suicide attempt, timing and mobilisation of resources are of critical importance. In this regard, it is important for each local director to have contingency plans, preferably in the form of checklists, to assist his/her staff in responding to all forms of emergencies, including suicides.

1. Prison wardens should ensure their staff are aware of contingency plans and readily available with shift operations and principal officers.
2. Every secure unit shall provide staff training and ready access to a Brooke Airway in the event of emergency. Similarly, all secure units shall provide staff's access to scissors or knives to be used in the event an inmate must be cut down if he/she attempts hanging.
3. Correctional staff are the first line of defense in saving lives and should take immediate action to remove hazards. Staff will turn over life-saving efforts to medical personnel upon their arrival but should remain to assist as directed.
4. As soon as is practically possible, the victim's cell should be secured for the preservation of evidence. Staff efforts to save his/her life should necessarily take first priority. However, staff should be observant in situations in the event foul play is later suspected and/or to assist in a coroner's inquiry or police investigation.
5. Each staff member who has knowledge of any circumstances surrounding the attempt or the suicide, or participated in the activities surrounding these, shall immediately prepare a written report covering all those circumstances.

### ***3.(o) Emergency Procedures Re: Hanging***

As hanging is the most lethal method of attempting suicide, focus is placed on prevention, discovery, cutting down and resuscitation procedures.

1. While speed is of the essence in cutting down a hanging inmate, it is nevertheless important to be able to ensure that the inmate (often unconscious) does not further injure him/herself by falling after being cut down. Ideally, two staff members should conduct this procedure with one staff holding the victim and the other cutting the hanging device (usually bedding, towel or clothing).
2. It is essential that staff finding the victim immediately remove the device from the neck of the victim, clear the airway and commence mouth to mouth resuscitation/CPR procedures without waiting for the arrival of specialised personnel.

### ***3.(p) Emergency Procedures Re: Slashing***

Slashing, the most frequent method of 'attempting suicide' and the method most often associated with attention-getting or manipulation, is nevertheless serious when deep wounds are inflicted or arteries severed.

Staff finding a serious slashing attempt should first call for backup and medical assistance, then apply first aid procedures to stop the flow of blood.

### ***3.(q) Emergency Procedures Re: Poisoning***

To combat one of the rarer methods of suicide, the ingestion of corrosives or poisons, it has been found valuable for medical staff to compile a list of antidotes and treatment regimens for each of the chemicals, cleansers or solvents inmates might gain access to in a prison.

Provision of a list of antidotes available can save valuable time when treating apparent poisonings.

### ***3.(r) Community Medical Services***

In the case of a serious attempt requiring community medical attention, immediately removing the inmate to the hospital under escort should be arranged.

## **4. Women's Health Services**

A pregnancy test shall be carried out on all females of childbearing age before any immunisations are given.

### *Discussion:*

The use of immunisations on pregnant women can cause negative complications for the pregnancy.

## **5. Juvenile Health**

Health care services provided by qualified health personnel shall be available to each inmate/youth.

### *Discussion:*

The primary purpose of health services is to treat illness, injury and disease in order to restore or improve the health of the individual. In fulfilling this goal, the prison's service ensures access by offenders to all levels of care obtainable by the population at large.

Informed consent shall be obtained by the institutional health care professional in all instances defined by the director of health services and standing written policy. The inmate shall have the right to refuse treatment.

### *Discussion:*

Informed consent is the agreement by the patient to a treatment examination or procedures after the patient receives the material facts regarding the nature, consequences, risks and alternatives concerning the proposed treatment, examination, or procedure. Medical treatment without consent by an inmate or youth could result in legal complications. In the case of minors, the informed consent of parent, guardian or legal custodian applies when required by law.

All information obtained in the course of treatment shall be confidential with the only exceptions being:

- (a) the legal and ethical obligations in response to a clear and present danger of grave injury to self or others,
- (b) with respect to a threat to the security of an institution, or
- (c) medical information necessary to security staff for the safe management of an inmate.

The health professional shall, in all cases, explain the limits of confidentiality to the patient.

*Discussion:*

The principle of confidentiality protects the patient from disclosure of confidences entrusted to a health professional during the course of treatment. The law recognises both an ethical and civil liability to ensure confidentiality. The active health record is to be maintained separately from the prison record.

This does not affect the health professionals' ability to advise of an inmate/youth's ability to work, nor does it affect his/her ability to advise on issues related to institutional security.

Upon admission, youths shall be provided with warm, clean clothing of a suitable size, appropriate to the climate, program and circumstances.

In instances where youths being discharged from residential programs lack appropriate non-institutional clothing, the program shall ensure the youth is provided with clothing appropriate to the climate and circumstances.



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**VI DISCIPLINE****PART ONE: UN GUIDELINES****A. GENERAL**

*Standard Rules for the Treatment of Prisoners*<sup>1</sup>

*Rule 27*

Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.

**B. LIMITS ON DISCIPLINARY MEASURES**

see also Section B 7 Inmate Rights During Disciplinary Proceedings below

**1. Legal Authority**

*Standard Rules for the Treatment of Prisoners*<sup>2</sup>

*Rule 29*

The following shall always be determined by the law or by the regulation of the competent administrative authority:

- (i) Conduct constituting a disciplinary offense
- (ii) The types and duration of punishment which may be inflicted
- (iii) The authority competent to impose such punishment

*Rule 30*

1. No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offence.

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<sup>1</sup> First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva 1955, approved by the Economic and Social Council Resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

<sup>2</sup> *Supra*, note

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>3</sup>

*Principle 30*

1. The types of conduct of the detained or imprisoned person that constitute disciplinary offences during detention or imprisonment, the adoption and duration of disciplinary punishment that may be inflicted, and the authorities competent to impose such punishment shall be specified by law or lawful regulations and duly published.

**2. Torture - Definitions**

see III INMATE RIGHTS AND TREATMENT OF PRISONERS

**3. Prohibition Against Torture as a Form of Punishment**

see III INMATE RIGHTS AND TREATMENT OF PRISONERS

**4. State Responsibility**

see III INMATE RIGHTS AND TREATMENT OF PRISONERS

**5. Duties of Institutional Personnel**

see III INMATE RIGHTS AND TREATMENT OF PRISONERS

**6. Other Forms of Punishment**

*Standard Minimum Rules for the Treatment of Prisoners*<sup>4</sup>

*Rule 31*

Corporal punishment, punishment by placing an inmate in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.

*Rule 32*

1. Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he/she is fit to sustain it.

2. The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary to or departing from the principle stated in Rule 31.

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<sup>3</sup> General Assembly Resolution 43/173 of 9 December 1988.

<sup>4</sup> *Supra*, note

3. The medical officer shall make daily visits to prisoners undergoing such punishments and shall advise the prison warden if he/she considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

*Rule 33*

Instruments of restraint, such as handcuffs, chains, irons and straitjackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:

- (i) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority
- (ii) On medical grounds by direction of the medical officer
- (iii) By order of the prison warden, if other methods of control fail, in order to prevent a prisoner from injuring him/herself or others or from damaging property; in such instances the prison warden shall at once consult the medical officer and report to the higher administrative authority

*Basic Principles for the Treatment of Prisoners*<sup>5</sup>

*Principle 7*

Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.

**7. Inmate Rights During Disciplinary Proceedings**

***7.(a) Right to be Informed of Charge and Make Defense***

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*<sup>6</sup>

*Principle 30*

2. A detained or imprisoned person shall have the right to be heard before disciplinary action is taken. He/she shall have the right to bring such action to higher authorities for review.

<sup>5</sup> General Assembly Resolution 45/111 of 14 December 1990.

<sup>6</sup> *Supra*, note

*Standard Minimum Rules for the Treatment of Prisoners*<sup>7</sup>*Article 30*

2. No prisoner shall be punished unless he/she has been informed of the offence alleged against him/her and given a proper opportunity of presenting his/her defense. The competent authority shall conduct a thorough examination of the case.

3. Where necessary and practicable the prisoner shall be allowed to make his/her defense through an interpreter.

**7.(b) Right to Make Complaint/Investigation of Complaint**

see III INMATE RIGHTS AND TREATMENT OF PRISONERS

**7.(c) Right to Redress**

see III INMATE RIGHTS AND TREATMENT OF PRISONERS

**7.(d) Prohibition Against Using Evidence Obtained During Torture**

see III INMATE RIGHTS AND TREATMENT OF PRISONERS

**8. Prisoners not to be Employed in Disciplinary Capacity***Standard Minimum Rules for the Treatment of Prisoners*<sup>8</sup>*Rule 28*

1. No prisoner shall be employed, in the service of the institution, in any disciplinary capacity.

2. This rule shall not, however, impede the proper functioning of systems based on self-government, under which specified social, educational or sports activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purpose of treatment.

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<sup>7</sup> *Supra*, note

<sup>8</sup> *Supra*, note

## 9. Disciplinary Standards Applicable to Juveniles

*United Nations Rules for the Protection of Juveniles Deprived of Their Liberty*<sup>9</sup>

### *Rule 66*

Any disciplinary measures and procedures should maintain the interest of safety and an ordered community life. They should be consistent with the upholding of the inherent dignity of the juvenile and the fundamental objective of institutional care, namely, instilling a sense of justice, self respect and respect for the basic rights of every person.

### *Rule 67*

All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited. These measures include corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned. The reduction of diet and the restriction or denial of contact with family members should be prohibited for any purpose. Labour should always be viewed as an educational tool and a means of promoting the self-respect of the juvenile in preparing him or her for return to the community and should not be imposed as a disciplinary infraction. Collective sanctions should be prohibited.

### *Rule 68*

Legislation or regulations adopted by the competent administrative authority should establish norms concerning the following, taking full account of the fundamental characteristics, needs and rights of juveniles:

- (i) Conduct constituting a disciplinary offence
- (ii) Type and duration of disciplinary sanctions that may be inflicted
- (iii) The authority competent to impose such sanctions
- (iv) The authority competent to consider appeals

### *Rule 69*

A report of misconduct should be presented promptly to the competent authority, which should decide on it without undue delay. The competent authority should conduct a thorough examination of the case.

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<sup>9</sup> General Assembly Resolution 451113 of 14 December 1990.

*Rule 70*

No juvenile should be disciplinarily sanctioned except in strict accordance with the terms of the law and regulations in force. No juvenile should be sanctioned unless he or she has been informed of the alleged infraction in a manner appropriate to the full understanding of the juvenile, and given a proper opportunity of presenting his or her defense, including the right of appeal to a competent impartial authority. Complete records should be kept of all disciplinary proceedings.

*Rule 71*

No juveniles should be responsible for disciplinary functions except in the supervision of specified social, educational or sports activities or in self-government programs.

*Rule 87*

In the performance of their duties, personnel of detention facilities should respect and protect the human dignity and fundamental human rights of all juveniles, in particular as follows:

- (a) No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever.

## **PART TWO: PROPOSED PRISON POLICY**

### **A. PURPOSE OF DISCIPLINARY SYSTEM**

The purpose of the disciplinary system and the regulations is to encourage inmates to conduct themselves in a manner that promotes the good order of the penitentiary, through a process that contributes to the inmates' rehabilitation and successful reintegration into the community.

### **B. DISTRIBUTION OF RULES AND REGULATIONS**

Each correctional institution shall make available a copy of the institution's rules and regulations to each inmate upon admission.

Any change in rules and regulations shall be immediately conveyed in writing to all inmates or posted on a bulletin board by the officer in charge.

### **C. DISCIPLINARY OFFENCES**

An inmate commits a disciplinary offence when he/she:

- (a) disobeys a justifiable order of a staff member;
- (b) is, without authorisation, in an area prohibited to inmates;
- (c) willfully or recklessly damages or destroys the property of others or that of the institution;
- (d) commits theft;
- (e) is in possession of stolen property;
- (f) is disrespectful or abusive toward a staff member in a manner that could undermine a staff member's authority;
- (g) is disrespectful or abusive toward any person in a manner that is likely to provoke a person to be violent;
- (h) fights with, assaults or threatens to assault another person;
- (i) is in possession of, or deals in, contraband;
- (j) without prior authorisation, is in possession of, or deals in, an item that is not authorised by a directive or by a written order of the institutional head;
- (k) takes an intoxicant into his/her body;
- (l) fails or refuses to provide a urine sample when demanded pursuant to local guidelines;
- (m) creates or participates in:
  - (i) a disturbance
  - (ii) any other activity that is likely to jeopardise the security of the penitentiary;

- (n) does anything for the purpose of escaping or assisting another inmate to escape;
- (o) offers, gives or accepts a bribe or reward;
- (p) without reasonable excuse, leaves work or refuses to work;
- (q) engages in gambling;
- (r) willfully disobeys a written rule governing the conduct of inmates; or
- (s) attempts to do, or assists another person to do, anything referred to in Paragraphs (a) to (r).

## **D. DISCIPLINARY PROCEEDINGS**

### **1. Informal Resolution**

Where a staff member believes on reasonable grounds that an inmate has committed or is committing a disciplinary offence, the staff member shall take all reasonable steps to resolve the matter informally, where possible.

### **2. Disciplinary Charges**

When an inmate breaches a rule and the circumstances are such that the breach can be settled informally, the officer should, subject to established limitations, attempt to do so. If that avenue is not available, the officer shall deal with the incident formally and in writing.

### **3. Offence Reports**

#### ***3.(a) Purpose***

To establish procedures for staff to follow when an inmate's behavior warrants the completion of an offense report.

#### ***3.(b) Responsibility***

It is the responsibility of all employees of the prison service, contractors and contractors' employees to observe and initiate written reports on inmates who are displaying negative behavior.

#### ***3.(c) Report***

A concise account of the inmate's behavior shall be recorded on an inmate offense report and notification of charge report. The report must include all information necessary to ensure that the incident is fully recorded and the written report is sent to the designated supervisor's office for further action.

### 3.(c)(i) Content of Report

A violation of institutional rules, when filed, shall include or be accompanied by, but not necessarily limited to the following information:

- (i) The identity of the inmate
- (ii) Specific rule(s) violated
- (iii) The location, date and time of the breach
- (iv) Formal statement of charge
- (v) A statement of any unusual inmate behavior
- (vi) The circumstances of the breach
- (vii) Staff and/or inmate witnesses
- (viii) Disposition of any physical evidence
- (ix) Any immediate action taken, including use of force
- (x) Reporting staff member's signature, the date and time report is prepared, and signed and dated report of the investigating officer
- (xi) Any statements made by the inmate, including reasons for the behavior

### ***3.(d) Supervisor Responsibilities***

The reporting officer shall, prior to the completion of the shift, present the report to the immediate supervisor, who shall review the allegations with the reporting officer. The supervisor shall sign the report only after being satisfied that:

- (a) the charge cannot be handled informally;
- (b) there is sufficient evidence to support a charge; and
- (c) the proper charge is being used.

In signing the report, the supervisor is confirming the propriety of the action taken.

Once the supervisor signs the report, the inmate shall be provided with a copy. The reverse side of the inmate's copy contains relevant advice respecting the hearing.

A copy of the report is then delivered to the prison warden or designate.

The duties of the reporting officer are not completed with this phase of the process. The report shall be tendered in evidence at the hearing. Should the inmate enter a denial of the allegation, the reporting officer shall be called to give evidence.

## **4. Investigating Officer**

### ***4.(a) General***

An investigating officer may be identified to independently investigate the circumstances around the violation, and his/her report is to be submitted to the panel independently of the report of the staff member charging the inmate.

An investigating officer may be appointed by the prison warden or designate, when either:

- (a) the report does not contain all relevant information and data to support the disciplinary hearing; or
- (b) the severity of the allegation warrants further investigation; or
- (c) the circumstances appear relatively complex.

The investigating officer or the reporting officer, as the case may be, shall be available to give evidence at the hearing.

#### ***4.(b) Investigating Officer's Responsibilities***

The appointed investigating officer shall record:

- (a) the accounts of witnesses, staff and inmates, who can give direct evidence,
- (b) the offending inmate's account of the incident, and
- (c) a synopsis of the incident.

The duties of the investigating officer are completed, with this phase of the process, except for the giving of evidence at the hearing.

#### **5. Determination of Offence**

A designated senior prison official will be responsible for designating the charge and for determining if it should be minor or serious. If there are concerns regarding the offense, the originator of the report shall be contacted for clarification.

Once designated, the officer in charge shall forward the report to the prison warden or designate for review and he/she will sign agreeing to the need for the offense report or will indicate that a charge is not warranted.

#### **6. Inmate Notification**

A copy of the offense report will be given to the inmate with the proposed hearing date. The officer providing the inmate with a copy of the offense report shall also inform the inmate of his/her right to council and provide him/her with the list of lawyers.

## **E. DISCIPLINARY HEARINGS**

### **1. Jurisdiction**

When an inmate is alleged to have committed an act which constitutes an indictable offence, the prison warden shall consult with local crown counsel to determine whether the case should be dealt with in an outside court or as an internal disciplinary matter.

### **2. Disciplinary Panel Guidelines**

Though some of an inmate's normal rights have been suspended or restricted by incarceration, it is nevertheless important to recognise and accept the premise that the principles of administrative and procedural fairness apply at these hearings. An inmate is entitled to a fair hearing, to hear and be heard, while undergoing this internal disciplinary process.

A disciplinary hearing is not a criminal trial; it is an administrative hearing with procedural rules to ensure a fair presentation of evidence, a hearing for both sides, and a just determination of the facts.

The purpose of these guidelines is to assist staff through the procedural steps in disciplinary hearings, and simultaneously, to ensure that their responsibilities within this framework are properly and adequately discharged.

### **3. Panel Scope and Structure**

Disciplinary panels at prisons shall be established, as shall rules and regulations governing:

- (a) inmate conduct,
- (b) breaches of conduct,
- (c) panel procedures,
- (d) dispositions, and
- (e) appeals and reviews,

and shall be set out in formal, legal fashion.

### **4. Expediency**

Disciplinary hearings should be held within twenty-four hours (excluding Saturdays, Sundays or holidays) from the time the charging officer submits the charge sheet to the shift supervisor. If an extension is required, a postponement may be granted.

The hearing must be started within seventy-two hours but where the hearing cannot proceed due to unavailability of the inmate or critical witnesses, the panel chairperson

may adjourn the continuation of the hearing until such time as it may be completed. An adjournment shall not be unduly prejudicial to the inmate.

### **5. Assistance to Inmate**

When an inmate is inarticulate, illiterate, or is not fluent in the English language, the officer in charge shall appoint a person to assist that inmate in presenting his/her case, understanding the procedures which apply at the hearing, and explaining the consequences of a finding against the inmate.

Where the inmate requests a lawyer or other person to assist in the defense of an allegation, the reasons for the request shall be considered by the panel chairperson who shall advise the inmate of the reasons for accepting or rejecting the request. In reaching such a decision, the panel chairperson should be guided by the following:

- (i) The seriousness of the allegation and the potential penalty
- (ii) The case is likely to be complicated, or raise legal or procedural issues
- (iii) The capacity of the inmate to understand the proceedings and present a defense
- (iv) The need for reasonable speed in completing the disciplinary process

### **6. Inmate Participation**

The inmate shall be present throughout the hearing, unless circumstances prevent attendance, and shall be provided reasonable assistance in presenting a defense and understanding the procedures and consequences of the hearing. The inmate may be dismissed while the panel deliberates its decision and, where appropriate, the disposition.

### **7. Formation of Panel**

Panel formation shall be in accordance with the prison's rules and regulations. An independent chairperson shall chair the disciplinary court and award punishment for serious or flagrant offenses. Any officer having direct personal knowledge of the facts, or direct personal involvement in the incident giving rise to the allegation/charge is disqualified from sitting on the panel.

The prison warden or designate, based upon case complexities or operational needs, determines whether a charge should be heard by:

- (a) a senior prison official,
- (b) a panel, or
- (c) an independent chairperson in the case of serious or flagrant offences.

### **8. Procedural Steps**

The panel shall proceed through the following steps:

1. Identify the panel.
2. Identify the inmate by name and number.
3. Ask the inmate if a copy of the offence report was received.
4. Read the allegation.
5. Ensure the inmate understands the allegation.
6. Ask for a plea to the allegation, i.e.
  - (a) admit the disciplinary offence, or
  - (b) deny the disciplinary offence.
7. Record the plea.
8. If the inmate makes no plea or refuses to plead, the situation shall be treated as a denial of disciplinary offence.

In the case of a denial:

1. Consider the report, and hear oral evidence from the officer who initiated the charge. Where an investigating officer was appointed, that officer shall be called to give oral evidence.
2. Ensure those officers named as witnesses are available to testify either through reports, or preferably in person.
3. Call any other witnesses who, in the opinion of the panel, may offer relevant facts to assist in the panel's deliberations. Witnesses may be called to testify both on behalf of the administration or the accused. The panel and the inmate may question those witnesses.
4. Witnesses should only be called if they have relevant, direct, first-hand knowledge of the circumstances of the charge.
5. The inmate should be afforded every reasonable opportunity to present a defense and be heard. The panel may question an accused giving evidence.
6. Facts the inmate does not wish to give as evidence should not be interpreted adversely against the inmate.
7. Evidence provided by an informant shall be given in such a way as to ensure absolute protection for the source of the information, yet must be detailed enough to ensure the inmate is aware of the substance of the allegation.

8. After considering all the evidence, the panel shall determine the guilt or innocence of the accused. It may adjourn to do so, or may do so immediately. In making this determination, it is not necessary to find the accused guilty beyond a reasonable doubt, but on the balance of probabilities. The evidence weighed by the panel should be relevant, trustworthy and credible.

In cases where the inmate admits the disciplinary offence:

1. Consider the report of the officer who initiated the allegation, and, if appointed, the report of an investigating officer.
2. Consider any oral or written statement which the inmate might wish to make concerning the circumstances and disposition of the disciplinary offence.

### **9. Finding**

The panel should fairly and impartially consider all the evidence before it at the hearing, and then determine, on the balance of probabilities, whether the allegation has been substantiated.

When the panel determines that the allegation is not substantiated, the panel is obliged to dismiss the allegation.

The panel shall advise the inmate of the finding.

### **10. Disposition**

Where the allegation has been substantiated by the evidence, and before determining the disposition, the panel should:

- (a) examine the disciplinary record of the inmate; and
- (b) ask if the inmate has anything to say before the sentence is passed.

After taking into consideration the above, the seriousness of the offence, and the effect the disposition may have on the inmate and the inmate population, the panel then imposes the appropriate disposition as set out in the prison's rules and regulations.

An inmate who is found guilty of a disciplinary offence is liable to one or more of the following:

- (i) A warning or reprimand
- (ii) A loss of privileges
- (iii) An order to make restitution
- (iv) A fine
- (v) Performance of extra duties

(vi) In the case of a serious disciplinary offence, segregation from other inmates for a maximum of thirty days

The disposition shall be explained to the inmate.

## **F. REVIEW OF PANEL DECISION**

### **1. General**

The panel shall advise the inmate of the provisions for review procedures.

The inmate may apply for a review as provided for, at any time following the imposition of a disposition.

If the inmate applies for a suspension or reduction immediately following the imposition of a disposition, the panel should review and consider the inmate's progress file and any other pertinent records to ascertain the inmate's previous conduct. If the panel is satisfied the case warrants a reduction or suspension, the panel should discuss the conditions with the inmate.

If the inmate indicates a willingness to comply with the terms of the undertaking, the panel should then consider the reduction or suspension of the disposition.

The panel shall respond to the inmate's request for a reduction or suspension of the disposition and then confirm or adjust the sentence.

A record of the disposition as well as the reasons for that disposition is then entered on the inmate offence report.

### **2. Information of Judgment and Filing**

A "notice of punishment or administrative action disciplinary court/minor offence court" shall be distributed as follows with a photocopy to finance when a fine has been levied:

1. Inmate's file
2. Case Management
3. Sentence Administrator
4. Work location if inmate is sentenced to punitive segregation
5. Staff who reported the offence

### **3. Storage of File**

The prison shall retain these records for sixty days from the date of disposition. This standard ensures that a complete and thorough examination of the hearing can be conducted in the event that an appeal is lodged against either the finding of disposition or the panel.

## **G. FAILURE TO COMPLY**

When an inmate fails to comply with a term or condition imposed as the result of reduction or suspension of a disposition, the panel or officer who reduced or suspended the disposition, may require the inmate to appear before the panel. The panel may impose a new disposition or reinstate the disposition previously suspended or reduced.

## **H. APPEAL PROCEDURES**

The inmate shall be advised of the appeal procedures outlined in the prison's rules and regulations.

## **I. SEGREGATION**

### **1. Definition**

Punitive segregation refers to the housing of an inmate in segregation for a specific sentence, for a period not exceeding thirty days.

An inmate may only be sentenced to punitive segregation pursuant to the applicable directives after determination of guilt by the independent chairperson on a serious charge.

### **2. Policy Objective**

To provide institutional policies and procedures in the management of inmates in punitive segregation and administrative segregation in a secure and humane manner.

### **3. Segregation Unit**

#### ***3.(a) Physical Plant***

The physical plant in which segregated inmates are housed shall meet the standard specified for physical plant housing for general population inmates.

The segregation unit cells shall be of similar size and shall contain the same facilities as the general population cells/units.

### ***3.(b) Inmate Rights During Segregation***

Inmates segregated for disciplinary reasons shall retain all the customary and specified rights and privileges of inmates in the general population, with the exception of those rights and privileges which are qualified or removed by the prison's regulations.

*Discussion:*

Possible limitations of inmates' rights and privileges are as follows:

During confinement in a segregation cell, an inmate shall:

- (a) unless the prison warden considers it could endanger the inmate or other persons, have a mattress, bedding, and clothing- the type normally issued to inmates in the prison;
- (b) unless the prison warden considers this would pose a special danger to the inmate or other persons, the use of tobacco products; and
- (c) after the first twenty-four hours of confinement, thereafter shall be allowed a minimum one hour exercise period outside the segregation cell during each twenty-four hour period.

It should be noted that the United Nations Standard Minimum Rules for the Treatment of Prisoners requires that the one hour exercise period take place out-of-doors. This consideration should be tempered by considerations of climate.

Any determination by the prison warden and/or his/her designate to limit the rights of an inmate in disciplinary segregation shall be done so in writing and a copy of the determination shall be given to the inmate within twenty-four hours of the determination being made.

A person incarcerated in segregation and/or isolation shall be permitted to attend regular services of worship where the prison warden is satisfied that such attendance will not jeopardise the security of the institution or cause disruption of the services.

Telephone privileges shall apply as per regulations.

All inmates shall be allowed to wear standard institutional clothing.

Normal institutional meals shall be provided to all inmates.

Inmates shall be allowed to shave and shower a minimum of three times a week, and barbering services shall be available by submitting a written request.

Library privileges including legal materials, shall be available in segregation. Inmates' written requests for specific books and/or reference materials shall be directed to the institutional librarian.

Inmates shall have access to program staff by initiating a request to the institutional case management officer assigned.

If any of the usually authorised privileges afforded inmates in the segregation unit are denied or withdrawn, a report shall be submitted to the warden, advising of the action taken and reasons why.

Every inmate in the segregation unit shall be visited:

- (a) upon request, by the supervisor in charge, evenings, weekends and statutory holidays,
- (b) on a weekly basis, by a member of his/her case management team, and
- (c) Monday through Friday by the officer in charge of the prison.

A nurse shall make daily visits to the segregation unit to see each inmate and provide prescribed medication.

The institutional health care officer shall examine each inmate as soon as possible after admission to the segregation unit. No inmate shall be kept in segregation if, in the opinion of the health care officer, this area may have an adverse effect on the inmate's health.

Inmates refusing consent for this examination shall have the refusal recorded and witnessed.

#### **4. Logs**

There shall be four permanent log books kept in the segregation unit, and available to senior staff:

**Individual Inmate Log:** All pertinent data shall be recorded such as admission information, raw data, release or tentative release date, special problems or needs, etc.

**Daily Visitors Log:** All official visitors shall sign this log and record date and time of the visit.

**Daily Participation Log:** All services provided to each inmate shall be recorded (exercise, shower, shave, visits, meals, bedding and clothing).

**General Information Log Book:** Every shift shall record activities and incidents which took place during the shift, for the benefit of the next shift.

**5. Fire Safety and Evacuation**

Staff shall become familiar with fire fighting equipment available in the segregation building.

Evacuation areas for inmates housed in this unit shall normally be the exercise yards.

***TOWARDS IMPROVED CORRECTIONS:***

***A STRATEGIC FRAMEWORK***

Publication and distribution of this document is a joint initiative of the International Centre for Criminal Law Reform and Criminal Justice Policy and the Correctional Service of Canada. For further information about the strategic framework or other aspects of this international corrections program or other programs in international criminal law reform and criminal justice policy, please contact:

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## INTRODUCTION

The First International Symposium on the Future of Corrections, was held in Ottawa, Canada, in June 1991. Delegates to that symposium agreed on the need for a strategic framework, that is, a statement of values and principles for corrections.<sup>1</sup> Following the symposium, a drafting committee convened by the Correctional Service of Canada worked on developing such a framework. The result was a framework document, "Towards Excellence in Corrections."

Delegates to the first symposium also agreed to hold another symposium in two years' time to examine the strategic framework and test its validity for a variety of correctional systems. The second symposium was held in Poland in October 1993. Senior officials, representatives of non-governmental organizations, and academics from 29 nations attended the second symposium. They endorsed the strategic framework in principle and recommended a number of changes and improvements, which have been incorporated into this version, which has been given a new title.

The intent of the strategic framework is to assist correctional organizations in defining their role within the criminal justice system. This involves:

- explaining what corrections is;
- defining what is meant by effectiveness in corrections;
- explaining what corrections can realistically achieve; and
- expressing the values that are vital to corrections in a democratic society.

This framework is not a set of precise, specific standards but a broad vision that will serve to guide developments in the field of corrections. Its aim is to inspire improvement in performance, not just change. As such, it should serve as a starting point for discussion. How the framework is used must be determined by each system that is in search of a better future. It can serve as a reminder of the opportunities for improvement and an impetus for action. Commitment to the values and principles contained herein will allow correctional systems to achieve significant progress and improvement.

This document is intended to contribute to:

- a greater emphasis on crime prevention to clarify for members of the public, politicians, and the other components of the criminal justice system how corrections contributes to society's efforts to achieve domestic peace and justice and the limitations of that contribution;

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<sup>1</sup> The term "corrections" is used throughout this document to denote those segments of the criminal justice system responsible for prison administration and the supervision of offenders on conditional release in the community.

- systemic improvements in corrections and criminal justice policies and legislation through a consistent approach to offenders<sup>2</sup> based upon shared values and principles;
- the appropriate use of imprisonment through a stronger emphasis on community corrections and non-custodial measures combined with effective programs to safely reintegrate offenders into society;
- the development of improved risk assessment tools and risk management strategies through on-going research and sharing of information nationally and internationally;
- increased staff professionalism; and
- a clearer understanding of, and commitment to the responsibilities of the following in contributing to an effective corrections system:
  - society, which provides the mandate, resources, and support;
  - corrections, which provides programs, expertise and professional, committed personnel;
  - offenders, who choose the programs that will assist them to become law-abiding citizens.

Corrections faces a number of challenges that are unlikely to change in the short term:

1. There are public demands for more punitive sanctions and an increasing reliance on incarceration as the crime control measure of choice. This hinders the development of meaningful community sanctions. Approaches to dealing with offenders are fragmented, even within the criminal justice system itself.
2. Severe crowding in some jurisdictions, has stripped corrections systems of their ability to treat offenders in a humane manner.
3. There are unrealistic expectations that corrections alone can solve the crime problem. Public confidence in the criminal justice system is limited and fragile and there is a general intolerance of any failure. Adding to the problem is a lack of understanding about corrections, a view that "nothing works," and a reticence to support alternative sanctions and a more judicious use of imprisonment.
4. A continued denial of community responsibility for crime prevention and control leads to expectations that corrections alone will provide a solution. Once offenders are sentenced,

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<sup>2</sup> The term "offenders" refers to prisoners and parolees (or others conditionally -released), collectively.

corrections is expected to redress long-standing inadequacies of education, housing, social welfare and discrimination.

These expectations are compounded by public perceptions of increasing violent crime; which, in many counties are unfounded. Nevertheless, fear of crime is a reality that must be addressed if corrections is to gain credibility and public support.

5. There is a clear need for better public education about corrections. The public needs to understand the roles to be played by the community, the criminal justice system, and corrections in striving for a safer and more peaceful society. The community must participate in the correctional process. Leaders in the corrections field must become actively involved in the development of public policy.
6. Incarceration is costly and demands resources that would be better invested in social programs that have a more direct impact on crime prevention. In some jurisdictions, the cost of constructing and maintaining prisons threatens basic programs of employment, education, economic development, health, housing and income maintenance. While good correctional practice contributes to crime prevention, other social programs can have a greater effect in addressing the underlying causes of crime.
7. There is a growing demand for all public services to become more effective and efficient, to be more open to public scrutiny, to give better quality service to the public and, generally, to be more accountable.

The strategic framework that follows sets out fundamental objectives to meet these challenges, expressed in the form of values and principles.

### **THE ROLE AND VALUES OF CORRECTIONS**

*The goal of every society is to maintain peace and to provide justice and safety for its members.*

*The criminal justice system contributes to the maintenance of a just, peaceful and safe society, through the use of appropriate and reasonable sanctions.*

*As part of the criminal justice system, corrections contributes to the protection of society by actively encouraging offenders to take advantage of opportunities that will assist them in becoming law-abiding citizens, while exercising only the degree of control necessary.*

## **Discussion**

All people have the right to live in a just, peaceful and safe society. There will always be crime and a need for criminal justice. The definition of an acceptable level of crime within any society is a function of the values and culture of that society. Societal values also determine the nature of the response to crime.

There is clear evidence that the increased use of imprisonment and punishment does not reduce the level of crime, and, therefore, does little to contribute to the long term protection of society. Corrections has limited potential for the control of crime: Sanctions come into play far too late and leave the sources of the problem untouched. The majority of offenders can be safely managed in the community where appropriate sanctions can be imposed and effective programs provided. Offenders must demonstrate responsibility, repair the harm done to the community, and comply with stipulated expectations.

One of the greatest challenges to society is to develop more effective and credible community sanctions. Imprisonment, while the ultimate sanction in most societies, is probably the least promising, productive, or effective. Thus it should be used with restraint. Nevertheless, there will remain, for the foreseeable future, a need for prisons to deal with the relatively small group of serious offenders who pose a significant risk to society.

A term of imprisonment is appropriate for those offenders who pose an unmanageable risk to the public, or where the seriousness of the offence, in the eyes of society, requires imprisonment as a sanction. When imprisonment is necessary, corrections has an obligation to provide for the safe, secure and humane custody of offenders, while exercising only the degree of control necessary. Society is best protected in the long-term by the timely and safe release of offenders to serve the balance of their sentence in the community, under appropriate supervision and control. The vast majority of offenders will return to the community. The prison regime should facilitate their safe return to society by creating, to the extent possible within prison, an environment reflective of the community-at-large. It is equally important to provide a range of programs and activities that motivate offenders to address the factors that led to their criminal behaviour and to maintain family and community ties.

## **VALUE 1 – JUSTICE AS THE CORE VALUE**

*Corrections is that component of the criminal justice system, which has the greatest impact on the freedoms, liberties and rights of individuals. Therefore those who are involved in corrections must respect fundamental human rights in every aspect of their work and must be guided by a belief in:*

- *fairness and equality under and before the law;*
- *the dignity and worth of individuals, and*
- *managing with honesty, openness and integrity.*

### **Principles**

In protecting the rights of offenders, correctional systems should build on the base established in international standards.

The foremost duty of corrections should be to promote, in staff members and with the public, respect for the inherent dignity, humanity, and worth of all individuals, including offenders.

Adopting justice as the core value sets the framework for the values and principles that guide the approach to offenders, the use of sanctions, decision making, partnerships, the development of professional correctional workers, the relationship with the public and the overall effectiveness of corrections.

## VALUE 2

*Fundamental to an effective corrections and justice system is a firm commitment to the belief that offenders are responsible for their own behaviour and have the potential to live as law-abiding citizens.*

### Principles:

Offenders must be treated as individuals.

There must be a focus on the specific circumstances, individual needs and risk posed by a particular offender and on addressing those needs while responsibly managing the risk.

Offenders must be informed, active participants in decisions affecting them and must be provided the opportunity for redress.

Positive and effective interaction based on mutual respect between staff members and offenders, is the cornerstone on which the future of corrections rests.

Opportunities must be provided and offenders actively encouraged to take part in programs that will reduce the risk they present and aid their reintegration into society.

Programs should be based on a sound framework of research and evaluation and innovative approaches to effective programs supported.

Conditions imposed on offenders must be appropriate to risk and need, facilitate positive change, and be clearly stated and understood by all involved.

Each offender should be encouraged to gain more freedom through responsible behaviour over time.

The religious, spiritual and cultural needs of individuals and minority groups should be accommodated, provided the rights of some other group are not impinged upon in the process and that reasonable requirements of safety, security, and good order are met.

### VALUE 3

*The majority of offenders can be dealt with effectively in the community by means of non-custodial correctional programs; imprisonment should be used with restraint.*

#### Principles

Imprisonment should be reserved for those not otherwise suitably punished, those who pose a serious danger to the community, and those who willfully refuse to comply with non-prison sanctions.

Offenders are sent to prison as punishment, not for punishment, and therefore prison environments must be safe and humane and as close as possible to conditions in the community.

Dynamic security, based upon active and consistent interaction between staff members and offenders, fosters a non-repressive, non-adversarial climate in which overall security is enhanced. Inmates are held accountable for their behaviour, and are expected to act responsibly and build positive relationships with staff members.

Static security, with its various physical means of containment, complements and reinforces dynamic security. Force is used only when necessary and then only to the degree required to preserve life, prevent injuries and restore order.

The interests of society are best served by the successful reintegration of offenders as early and safely as possible. This is a key aspect of corrections' contribution to crime prevention.

A graduated release program tests an offender's suitability for release while providing necessary support and control, and is preferable to release at the end of the sentence with no preparation or supervision.

Credible community programs, directed towards maintaining offenders in the community and consistent with the need to protect the public, are a cost-effective approach to dealing with offenders and should be the primary focus.

Offenders sentenced to a term of imprisonment will be supported in maintaining and developing family and community ties as an essential aspect of preparing for their return to society.

Continuity in programming is important so that offenders who are ready for release are able to continue to address their needs in the community.

Community programs focused on developing and maintaining support systems, gainful employment and social services significantly improve an offender's potential to become a law-abiding citizen.

Within a fair and rational sentencing process, a broad range of credible, safe and effective sanctions must be made available. Evaluation of the effectiveness of the various sanctions will provide empirical evidence of their relative merit to those responsible for sentencing.

## VALUE 4

*In the interest of public protection, decisions about offenders must be based on informed risk assessment and risk management.*

### Principles:

Given the nature of corrections, risk will never be totally eliminated.

Assessment of the risk an offender poses should be used as the basis for most decisions within the criminal justice system.

Informed, comprehensive risk assessment must be based on high quality information gathered and shared among the components of the criminal justice system. Risk assessment tools must be empirically sound, based on research, evaluation and testing.

The ability to assess risk must be continually improved, and offenders matched with programs that will reduce the risk they pose.

Risk management strategies must be based on the specific needs of an offender. A variety of interventions must be available to address the risk posed by a particular individual.

Changes in the level of risk posed by an offender must be consistently monitored to determine whether controls can be lessened, or, alternatively, whether action must be taken to reduce the risk.

## **VALUE 5**

*Effective corrections is dependent on working in close cooperation with criminal justice partners and the community in order to contribute to a more just, humane and safe society.*

### **Principles:**

Positive and constructive partnerships should be established and maintained locally, nationally and internationally, with those who have an interest, or a role to play, in criminal justice.

Cooperative efforts are successful when they are based on shared interests, clear understanding of expectations, and open communications.

The valuable contribution of community services and agencies in working with offenders in the community should be supported to the fullest extent possible.

Effective criminal justice policy will be based upon open, two-way communication among partners within the criminal justice system.

Identifying and promoting improvements to criminal justice and social policies will lead to a more just, peaceful and safe society.

An external focus should be adopted, seeking opportunities in the community to improve achievement of objectives.

Corrections systems should be sensitive to, and, as much as possible, responsive to, the needs of victims.

## **VALUE 6**

*Carefully recruited, properly trained and well-informed staff members are essential to an effective correctional system.*

### **Principles:**

To meet existing and emerging challenges, recruitment should reflect the diversity within society and staff members recruited who share the overall values of the correctional system.

The professionalism of all correctional workers should be recognized and furthered by actively involving them in achieving goals and seeking their views on policies, plans and priorities.

It is important to establish expectations and objectives with employees and provide opportunities for personal growth and development so that they can achieve their full potential.

Staff members have the right to clearly understand their roles and responsibilities and are entitled to the information necessary to achieve the objectives set.

It is important to encourage employee initiative, creativity, and reliance on self-direction and to support personal responsibility for continued learning and career development.

Providing the training and supervision required for employees to succeed at their jobs is vital to both the individual and the organization.

Relationships with, and among, staff members, and with staff organizations, should be based on effective communication, mutual respect, and a recognition of common objectives.

## VALUE 7

*The public has a right to know what is done in corrections and should be given the opportunity to participate in the criminal justice system.*

### Principles:

It is crucial to enlist public understanding, support and participation in correctional programs and activities.

Communications should foster greater public interest and a better appreciation of the challenges of corrections so as to create more realistic expectations of what corrections can and cannot do.

Openness, accessibility, and responsiveness to public criticism, along with a willingness to seek improvements, support the principle that the public is a responsible participant in the correctional process.

Rational performance indicators based on solid empirical data, should be set for programs and operations, and results clearly communicated.

Positive and proactive relations should be pursued with the media to assist them in their role of informing the public about correctional issues and a spirit of openness and accountability adopted (to the extent permitted by law).

Volunteers make a valuable contribution to effective corrections and their active participation should be encouraged.

## **VALUE 8**

*The effectiveness of corrections depends on the degree to which correctional systems are capable of responding to change and shaping the future.*

### **Principles:**

Continuous improvements will be achieved by:

- learning from experience;
- keeping abreast of trends, developments and emerging issues;
- sharing information nationally and internationally;
- maintaining a strong research and development focus;
- maximizing the use of the resources available;
- benefiting from the knowledge and experience of others;
- establishing effective accountability mechanisms;
- communicating well within and outside the organization;
- being open and responsive;
- constantly seeking ways to improve;
- providing the best possible service in a professional manner;
- taking the lead in the development of public policy.

A focus on setting objectives, achieving results, and continually monitoring performance, will lead to ongoing improvements.