

GEORGIA DEPARTMENT OF CORRECTIONS



Standard Operating Procedures

Policy Name: Psychiatric Hospitalization

Policy Number: 508.25

Effective Date: 8/2/2022

Page Number: 1 of 12

Authority:
Commissioner

Originating Division:
Health Services Division
(Mental Health)

Access Listing:
Level I: All Access

I. Introduction and Summary:

It is the policy of the Georgia Department of Corrections (GDC) to address the needs of offenders who have a serious mental illness and who present a great risk of danger to themselves or others, or who are unable to care for their own physical health and safety, creating a life-endangering crisis. Those who cannot be safely managed in a less restrictive environment will have a Due Process Hearing, as specified by federal, state, and local law, prior to being transferred to an inpatient Prison Psychiatric Facility for management. This procedure is applicable to all facilities that house GDC offenders including private and county prisons.

II. Authority:

- A. Vitek v. Jones and Washington v. Harper;
- B. O.C.G.A.: 37-3-20; 37-3-40 through 37-3-85; 37-3-141; 37-3-150; 37-3-166, and 42-5-52;
- C. GDC Board Rules: 125-3-4-.07 and 125-4-4-.04;
- D. GDC Standard Operating Procedures (SOPs): 211.05 Procedures for Housing Juveniles Sentenced to GDC Custody by Superior Court (SB440 Juvenile), 227.05 Visitation of Offenders, and 508.35 Discharge Planning for Mental Health Offenders; and
- E. ACA Standards: 5-ACI-6A-05, 5-ACI-6A-37, 5-ACI-6C-12, 4-ALDF-4C-27 (Mandatory), 4-ALDF-4C-34, and 4-ALDF-4D-20.

III. Definitions:

- A. **Hearing Administrator** - A mental health staff member who facilitates the Due Process Committee through the hearing process, ensuring that this policy is followed. This role is usually filled by the mental health unit manager/designee.

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- B. Due Process Committee** - Three (3) facility staff members, in coordination with the facility mental health unit manager serves on the Committee. The Committee acts as a decision maker regarding emergency/involuntary Prison Psychiatric Facility administration, at a Due Process Hearing. The three (3) facility staff members will include a deputy warden of care and treatment/designee, a clinical member of the mental health staff (mental health counselor, mental health technician, mental health nurse, or psychologist) and a medical staff member (registered nurse (RN), advanced practice registered nurse (APRN), physician's assistant (PA) or physician). The Committee members cannot have been directly involved with recent mental health treatment or evaluation of the offender. Each Committee member has one (1) equally weighted vote. The mental health unit manager should not be a member of the Committee. A designated recording secretary will audio record the Committee proceedings.
- C. Due Process Hearing** - A meeting of assigned Due Process Committee members to make an objective decision by independent and impartial people. The hearing focuses on and decides on whether to transfer the offender to an inpatient Prison Psychiatric Facility while simultaneously protecting the rights of the offender.
- D. Offender Advocate** - A mental health counselor or mental health technician assigned by the mental health unit manager to explain the offender's rights and assist the offender to verbalize reasons for refusing a transfer to an inpatient Prison Psychiatric Facility during the Due Process Hearing. The Offender Advocate cannot be the offender's assigned counselor/technician.
- E. Psychiatric Emergency** - A crisis in which the offender is currently presenting risk of harm to self or others, or unable to participate in their care or treatment due to a decline in their functioning as a result of mental illness.
- F. State's Advocate** - A mental health counselor or mental health technician not directly involved in the treatment of the offender, acts as the State's Advocate, and presents documentary evidence during the Due Process Hearing.

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G. Prison Psychiatric Facility - A Prison Psychiatric Facility under contract with the State of Georgia used to house offenders identified as having special mental health treatment needs. The "least restrictive alternative" principle shall apply in the selection of this facility as an option. Thus, the offender cannot be safely managed in a less restrictive environment.

IV. Statement of Policy and Applicable Procedures:

A. Admission Procedures:

1. An offender's placement in a non-correctional facility or in a special unit within the facility or agency specifically designated for the care and treatment of those identified as having a serious mental illness. The transfer of the offender to the Prison Psychiatric Facility, follows due process procedures as specified by federal, state, and local law prior to the move being effected.
2. The mental health unit manager/designee is responsible for overseeing these Due Process Hearing procedures.
3. Forms specific to psychiatric hospitalization will be used (See Attachments 1-5).
4. In emergency situations, a hearing is held as soon as possible after the transfer to the Prison Psychiatric Facility.
5. When an offender is identified by the treatment team as needing Prison Psychiatric Facility services, the mental health unit manager/designee will notify the statewide mental health director/designee.
6. The mental health unit manager/designee will submit to the statewide mental health director/designee a thorough evaluation to substantiate the need for psychiatric hospitalization that will include, but not be limited to:

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- a. Diagnosis;
 - b. Level of care;
 - c. Medications (voluntary and/or involuntary);
 - d. Stabilization admissions (crisis stabilization unit documentation); and
 - e. Due Process Hearing documentation.
7. Admission to the Prison Psychiatric Facility will be coordinated through utilization management (UM), the medical director and the statewide mental health director/designee.
 8. The statewide mental health director/designee will notify Augusta State Medical Prison's (ASMP) mental health unit manager/designee upon approval via telephone or email.
 9. The mental health unit manager of the sending facility will ensure that all GDC records include:
 - a. The mental health record;
 - b. The medical record; and
 - c. The institutional record.

All the records listed above, will be forwarded to ASMP, and maintained at ASMP until the offender is released from the Prison Psychiatric Facility.

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10. The sending facility will complete the Prison Psychiatric Facility's admission form and will compose an "admission packet" which will include:

- a. Copies of all pertinent documentation concerning any previous psychiatric or psychological consultations; and
- b. Evaluations that will accompany the offender to the Prison Psychiatric Facility.

11. This packet will also include the referral information that was submitted to the statewide mental health director/designee.

12. Staff of the offender's referring facility will be responsible for transporting the offender to the Prison Psychiatric Facility.

B. Procedures for Transferring an Offender to a Prison Psychiatric Facility:

1. When an offender presents as a great risk of danger to themselves or others, or is unable to care for their own physical health and safety, thus creating a life-endangering crisis, and cannot be safely managed in a less restrictive environment, the attending physician must then explain to the offender:

- a. The assessment results;
- b. The reason(s) for considering an inpatient Prison Psychiatric Facility;
- c. In general, when, where, and how the offender will be transported to the Prison Psychiatric Facility;
- d. The risks and benefits of being transferred to a Prison Psychiatric Facility; and

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- e. The advantages and disadvantages of a transfer to a Prison Psychiatric Facility for treatment.
2. The physician will inform the offender that the transfer to the Prison Psychiatric Facility may occur involuntarily.
3. The physician will inform the offender that the issue of a transfer to a Prison Psychiatric Facility will be discussed in a meeting of the Due Process Committee.
4. An emergency transfer may occur if the situation poses imminent danger to the offender or others. The Due Process Hearing must be scheduled within a 24-hour period or as soon as possible (within 24 hours or the next business day) of the first opinion made by the attending physician who initiates the need to consider a transfer to a Prison Psychiatric Facility. The physician making the initial referral for emergency placement in a Prison Psychiatric Facility will complete the Certificate of Referral for Emergency Admission (Attachment 1, form M65-01-01).
5. Within one (1) working day of considering the offender for a Prison Psychiatric Facility treatment, the physician will request a second opinion on the need of a transfer to a Prison Psychiatric Facility. The second opinion is to be done by another physician and will be documented using the Certificate of Mental Condition (Attachment 2, form M65-01-02). Within a one (1) to two (2) working day period, both physician opinions will be documented.
6. Mental Health Due Process Committee:
 - a. Each correctional facility with a mental health program will have its own mental health Due Process Committee. The mental health unit manager at the facility will appoint the Committee.

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- b. The voting Committee will be composed of three (3) individuals:
 - i. The deputy warden of care and treatment/designee, but not the mental health unit manager.
 - ii. A professional member of the mental health staff who is not directly involved in the offender's treatment.
 - iii. A medical staff member who is not directly involved in the offender's treatment (RN, APRN, PA, or physician).

7. Due Process Hearing:

- a. The mental health unit manager/designee will coordinate the hearing procedure and will assemble a Due Process Hearing Committee that will act impartially in the decision-making. The mental health unit manager/designee will also assign the State's Advocate and Offender Advocate.
- b. The mental health unit manager/designee will arrange a time and location for the hearing consistent with the timetables detailed in these procedures.
- c. The assigned Offender Advocate will notify the offender of the time and location of the hearing using the Notification of Involuntary Hospitalization Due Process Committee Hearing (Attachment 4, form M65-01-04). The Offender Advocate will explain the offender's rights using the Emergency Admission Rights of Offender (Attachment 3, form M65-01-03). Copies of both forms will be given to the offender.
- d. Upon request, the GDC's Office of Legal Services will provide consultation and direction, as needed, through the process.

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- e. Attorney advocates retained by the offender will be allowed to visit with the offender consistent with SOP 227.05, Visitation of Offenders. It will be the responsibility of the GDC to notify the offender's privately retained attorney of the time and location set for the hearing. The offender's records and documentation will be made available to the attorney advocate.
- f. The purpose of the impartial Due Process Hearing will be to determine whether the offender has a mental illness and:
 - i. Presents a substantial risk of imminent harm to themselves, or others as manifested by recent overt acts or recent expressed threats of violence which presents a probability of physical injury to themselves, or
 - ii. Who is so unable to care for their own physical health and safety as to create an imminently life-endangering crisis.
- g. The highest-ranking administrative member of the committee will be appointed "hearing officer" and guide the process of the hearing.
- h. The State's Advocate will be responsible for presenting all evidence from documented information, including a written summary of key history relevant to the need for involuntary medication, and psychiatry findings regarding evaluation of history, mental status, and opinion on need for medication.
- i. The Offender Advocate will provide representation to the offender in expressing the offender's reasons for not requiring an involuntary transfer to a Prison Psychiatric Facility. The offender's attorney will serve this role if present. However, the attorney's presence does not eliminate the possible need for support from the Offender Advocate.

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- j. The offender has the right to attend the hearing. The offender or the offender's representative has the right to call any person as a witness including people located at other institutions unless reasonable cause exists not to allow this. Said reasons will be documented. At the discretion of the hearing officer, however, such testimony may be taken by phone or in writing, on condition that the offender provides written questions to be asked of the witness(s).
- k. The offender or their representative may question and cross-examine witnesses called by the GDC or vendor staff, except upon the finding by the hearing officer that reasonable cause exists not to allow cross-examination. Said reasons will be documented in the record. In the event of such a finding, the offender or their representative may submit to the hearing officer questions to be asked of such witnesses.
- l. The hearing officer will admit all relevant evidence. The hearing officer may limit evidence that is cumulative or repetitive. In the event, however, that admissible evidence is found to be cumulative, the offender or their representative may select the evidence they wish to introduce among the cumulative or repetitive sources of otherwise admissible evidence. A designated recording secretary will audio record all evidence presented during the Due Process Hearing. The mental health unit manager will keep the recording of the hearing proceedings for at least two (2) years from the date of the hearing.
- m. After the Committee has received all pertinent information, all non-committee participants will be excused while the Committee deliberates in private regarding the testimony presented.
- n. If after the Committee's deliberation, it finds that criteria to support the need for a transfer and admission into a Prison Psychiatric Facility is met, it will issue its findings in writing using the Involuntary Hospital

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Admission Review (Attachment 5, form M65-01-05), affirming the appropriateness of the transfer to a Prison Psychiatric Facility. If criteria have not been met, the Committee will issue its findings in writing using the Involuntary Hospital Admission Review (Attachment 5, form M65-01-05), and a transfer to a Prison Psychiatric Facility will not occur.

- o. The Committee will provide notification of the decision to the offender at the conclusion of the hearing.
- p. The documentation of the proceedings will include the offender's most recent treatment plan, the offender's reasons for refusal, efforts made by staff to obtain the offender's adherence to treatment, and rationale for the conclusion reached by the Committee. Also included, other pertinent data related to the decision to consider an emergency or involuntary transfer of the offender to a Prison Psychiatric Facility.

8. Filing of Documentation:

The Due Process documentation of the actions surrounding the hearing will be packaged (Attachments 1 - 5 stapled together as a unit) with a copy of any progress note (s) used as evidence during the Due Process Hearing. The original package will be filed in the mental health section (section 5) of the medical record. A copy of the package will be filed in the mental health record (section 5).

C. Discharge Procedures:

- 1. Discharge from the Prison Psychiatric Facility will be coordinated through the statewide mental health director/designee and ASMP.
- 2. If an offender is being paroled, the ASMP mental health unit manager/designee will advise the Board of Pardons and Parole and the

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Department of Community Supervision if the offender poses an overt danger to themselves and/or others.

3. If the Board of Pardons and Parole rescinds the offender's parole, the offender will remain at the Prison Psychiatric Facility.
 4. Should an offender need to be discharged from the GDC while housed at the Prison Psychiatric Facility, the statewide mental health director/designee will coordinate the discharge process through the ASMP staff.
 5. ASMP's mental health unit manager will follow discharge procedures as outlined in SOP 508.35, Discharge Planning for Mental Health Offenders.
- D. Oversight: Oversight of the stabilization and progress of the offender admitted to the Prison Psychiatric Facility will be provided by the statewide mental health director/designee and/or the vendor's chief clinical director.
- E. Data Collection: Data will be collected monthly or as needed by the vendor's chief clinical director and the GDC mental health central office staff to provide a means by which this process can be tracked and maintained.

V. Attachments:

- Attachment 1: Certificate of Referral for Emergency Admission (M65-01-01)
- Attachment 2: Certificate of Mental Condition (M65-01-02)
- Attachment 3: Emergency Admission Rights of Offender (M65-01-03)
- Attachment 4: Notification of Involuntary Hospitalization Due Process Committee Hearing (M65-01-04)
- Attachment 5: Involuntary Hospital Admission Review (M65-01-05)

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VI. Record Retention of Forms Relevant to this Policy:

Upon completion, Attachments 1, 2, 3, 4, and 5 shall be placed in the offender's mental health file. Audio Recordings of the Due Process Hearing will be kept for two (2) years by the mental health unit manager. At the end of the offender's need for mental health services and/or sentence, the mental health file shall be placed within the offender's health record and retained for ten (10) years.