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# CHAIRMAN'S MEMORANDUM

## NO. 4-2008      March 3, 2008

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**TO: SHERIFFS, COMMISSIONERS OF CORRECTION, CHIEF ADMINISTRATIVE OFFICERS, DIRECTORS OF COMMUNITY SERVICES, FACILITY MEDICAL DIRECTORS, FACILITY MENTAL HEALTH PROGRAM DIRECTORS**

**RE: Reproductive Services for Women in Jail**

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With the number of incarcerated women in New York's local correctional facilities growing rapidly, there is an increased need for attention to women's health care needs during incarceration. It is important for all jurisdictions to be cognizant of the community health care standards and reproductive health care rights as they relate to incarcerated women.

Even though most jails provide a high quality standard of services for women, a recent survey suggests that written policies and procedures may not be reflective of actual practice. Much of the care of women inmates has been managed under the *ad hoc* direction of the health care providers, rather than policy driven.

A review of policies and procedures should reflect current practices that specifically address women's health care in each jurisdiction. These policies and procedures should include, but not be limited to, intake health assessments inclusive of a reproductive health history, recent sexual abuse/trauma history, current complaints or identified problems, a pregnancy test if indicated and/or requested and any other relevant laboratory studies. In addition, intake exams should include breast exam, instruction for self breast exam and, depending on the person's age, a pelvic exam, pap smear, and baseline mammography. The jails should have a process to identify areas for improvement with a public health model of care in mind.

### **Access to Abortion**

The law clearly defines a requirement for jails to provide access to abortion and assume related costs. In sum, the case law on abortion indicates that an abortion is a "serious medical need," the deliberate indifference to which can result in a constitutional violation. The cost for such a procedure is a county charge based on the provisions of Correction Law section 500-h.

Many other aspects of women's health care needs are not as well defined by law. Some best practice recommendations for additional policy and procedures include:

### **Birth Control**

Women should be permitted to continue taking previously prescribed hormonal therapy during incarceration, i.e., in a manner no different from most other prescription medications prescribed by an offender's primary care physician.

### **Pregnancy Testing**

Health care providers should conduct an assessment to rule out pregnancy in all women admitted and should offer pregnancy tests upon request. Pregnant inmates should be made aware of all options available to them including prenatal care and assistance whether they choose to carry to term, reside with and care for the newborn in jail, end the pregnancy or require the assistance with placement of a newborn child.

### **Prenatal Care**

Continuity of care with a pregnant inmate's existing provider is ideal. However if this is not possible, records should be obtained from past providers. Prenatal care treatment plans should include OB-GYN consultation with regular follow-up. Correctional facilities should have policies and procedures in place that assess an inmates needs and develop a treatment plan that reflects the community standard of care. This should include determination of high-risk pregnancy and necessary precautions, special nutrition needs, recommended activity levels, housing assignments, and any safety concerns. The prenatal care plan should also include neo-natal and pediatric care for newborns who are permitted by law in most cases to reside with their mothers in jail.

### **Mental Health Care**

Although mental health services are readily available at the correctional facilities for all inmates to access or be referred, these services should be offered to all women after giving birth as well as to women who have miscarried or terminated their pregnancy during incarceration.

### **The Use of Restraints**

Facility medical staff shall be consulted regarding possible adverse health effects at the time mechanical restraints are applied to an inmate. Mechanical restraints shall be applied only if medical staff determine that such restraints will not result in injury or other health risk to the inmate who is to be restrained, and shall be prohibited for inmates with health problems, including, but not limited to, physical disability, hypertension, cardiovascular disease, asthma, alcohol or drug withdrawal or pregnancy. A proposed amendment to 9 NYCRR regarding mechanical restraints is currently under review.

### **Labor and Delivery**

Policy and procedure should ensure the timely transfer of female inmates to their community-based providers during labor and delivery. Health care providers should be trained to recognize labor and arrange for immediate transfer if appropriate.

### **Post-Sexual Assault Treatment**

Policy and procedure should reflect an HIV post exposure prophylaxis (PEP) plan for non-occupational exposure, made available to all inmates. Treatment should be initiated within 2 hours, but generally no later than 36 hours. Emergency contraception should also be made available to women entering the facility who report sexual assault or unprotected sex up to 120 hours prior to incarceration, and those who report sexual assault in the facility. Most often these services would be provided at the local hospital's emergency department. Jail physicians, and/or administrators should collaborate with their local hospital regarding the services available and the providing of services to incarcerated individuals.

Questions may be directed to the Commission's Forensic Medical Unit.

Daniel L. Stewart, Chairman