

Corrections Management (Segregation) Policy 2009

Notifiable instrument NI2009-161

made under the

***Corrections Management Act 2007*, section 14(1) (Corrections policies and operating procedures)**

1 Name of instrument

This instrument is the *Corrections Management (Segregation) Policy 2009*.

2 Commencement

This instrument commences on the day after it is notified.

3 Policy

I make the

SEGREGATION POLICY

attached to this instrument, to facilitate the effective and efficient management of correctional services.

James Ryan
Executive Director
ACT Corrective Services
25 March 2009



Alexander Maconochie Centre (AMC)



SEGREGATION POLICY

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Purpose

To outline the segregation policy.

Authority

Legislation

Corrections Management Act 2007, sections 14 and part 9.2.

Policy

Principles

This policy refers only to segregation under section 9.2 of the *Corrections Management Act 2007*.

Separate confinement may result from disciplinary proceedings in accordance with the *Discipline Policy* and *Procedure*. This is a separate process.

Segregation refers to:

- the restriction or denial of a prisoner's opportunity to go into, or remain in, a particular part of a correctional centre; and/or
- the restriction or denial of a prisoner's opportunity to associate with other prisoners.

Segregation may be achieved, for example, through the confinement of a prisoner to a particular location or the restriction of a prisoner's association with particular prisoners.

Segregation does not include:

- the placement of prisoners in the ‘mainstream’ population; or
- the placement of a prisoner on protection.

Segregation of a prisoner can result from a direction of a CO3, Deputy Superintendent or Superintendent.

Segregation of a prisoner is not to affect human rights as outlined in the *Human Rights Policy*.

Segregation of a prisoner is not to affect minimum living conditions as outlined in section 12 of the *Corrections Management Act 2007*.

Purpose of segregation

Segregation may only be ordered where the Officer believes, on reasonable grounds, that it is necessary or prudent to achieve one or more of the purposes outlined below.

Health

Segregation may be ordered for health reasons if it is reasonable and necessary to:

- assess the prisoner’s physical or mental health;
- protect anyone (including the prisoner) from harm because of the prisoner’s physical or mental health; or
- prevent the spread of disease.

When segregating a prisoner for health reasons, regard must be given to any advice provided by a Corrections Health Doctor or Mental Health ACT staff.

Segregation of a prisoner to prevent the spread of disease is a Category 1 notifiable incident.

Safety and security

Segregation may be ordered for safety and security reasons if it is reasonable and necessary to:

- protect the safety of someone (other than the prisoner) at a correctional centre; or
- protect the security or good order at a correctional centre.

When segregating a prisoner for safety and security reasons, regard must be given to any relevant known cultural consideration as well as any likely impact of the segregation upon the health and wellbeing of the prisoner.

Notification of segregation

The prisoner must be given prompt written notice of any direction to segregate them, why the direction was made, its duration, and provision for review.

Interstate transfer of segregated prisoners

A prisoner under a segregation direction who is transferred to the ACT from another jurisdiction is to remain under segregation despite their relocation.

Unless the segregation order is withdrawn, changed or replaced, segregation ends three days after the day the prisoner is taken into custody in the ACT.

A segregation order may be withdrawn, changed or replaced by ACT Officers at any time if necessary to achieve one or more of the purposes identified above. A segregation order must be revoked by ACT Officers if it is no longer necessary or prudent.

Transfer of segregated prisoners between ACT correctional centres

A segregation direction made while a prisoner is in one ACT correctional centre will continue to apply when the prisoner is transferred to another. In these circumstances, the direction will not be treated as a new direction. Prisoner notification will not therefore be required upon arrival.

Internal review of segregation directions

The Superintendent must review segregation directions:

- before any transfer of the prisoner to another correctional centre resulting in a change of that prisoner's accommodation;
- on request by a Corrections Health doctor; and
- at least once every 7 days while the direction remains in force.

The Superintendent may review a segregation direction at any time or on application by the prisoner subject to a direction. During a review, the Superintendent must assess any ongoing threat and the ability of the segregation to address that threat.

When reviewing a segregation direction made for health reasons, regard must be given to any advice provided by a Corrections Health doctor or Mental Health ACT staff.

After reviewing the direction, the Superintendent may:

- confirm the direction under review; or
- give a further segregation direction; or
- revoke the direction.

External review of segregation direction

The prisoner may request external review of the segregation direction by an Adjudicator. The appointed Adjudicators are:

- Chief Magistrate Ron Cahill
- Magistrate Grant Lalor
- Magistrate Shane Madden
- Magistrate Maria Doogan
- Magistrate Peter Dingwall
- Magistrate John Burns
- Magistrate Lisbeth Campbell
- Magistrate Karen Fryar

A request for external review must be made no later than 7 days after receiving notice of the segregation.

The Superintendent must be made aware of all requests for external review. The Superintendent must advise the Executive Director of such requests and facilitate the submission of requests to an adjudicator.

Upon application, an Adjudicator may conduct an inquiry into the segregation direction or refuse to review the direction.

The Adjudicator must give the prisoner prompt written notice of the Adjudicator's decision. If the Adjudicator refuses to review the direction, the written notice must include reasons for the refusal.

After reviewing the direction, the Adjudicator may:

- confirm the direction under review; or
- give any segregation direction available to the Superintendent, either by:
 - amending the direction under review; or
 - setting aside the direction under review and making a direction in substitution for the direction set aside.

End of segregation period

Segregation must be revoked if it is no longer necessary or prudent.

Segregation of a prisoner ends 28 days after the day the segregation direction was given. Following review, a further segregation direction may be made; on more than one occasion if necessary. If a further segregation direction is made, the segregation will end 90 days after the day of the latest further direction. At the end of that 90 day period, the direction must be reviewed.

If the prisoner was segregated for health reasons, regard must be given to any advice provided by a Corrections Health doctor or Mental Health ACT staff during any review of that direction.

Forms/Templates

Segregation Form

Related policies and procedures

Prisoner Discipline Procedure

Human Rights Policy

Medical Treatment Policy

Prisoner at Risk Policy

Prisoner at Risk Procedure