

Australian Capital Territory

Corrections Management (Prisoner Discipline) Procedure 2008

Notifiable instrument NI2008-594

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 (Prisoner Discipline) Procedure 2008*.

2 Commencement

This instrument commences on the day after it is notified.

3 Operating Procedure

I make the

PRISONER DISCIPLINE PROCEDURE

in Schedule 1 of this instrument, to facilitate the effective and efficient management of correctional services.

4 Revocation

This instrument revokes notifiable instrument NI2007-459

James Ryan
Executive Director
ACT Corrective Services
15 December 2008



Belconnen Remand Centre (BRC)
Symonston Temporary Remand Centre (STRC)



PRISONER DISCIPLINE PROCEDURE

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Purpose

To detail the process for dealing with disciplinary breaches and allegations of disciplinary breaches.

Authority

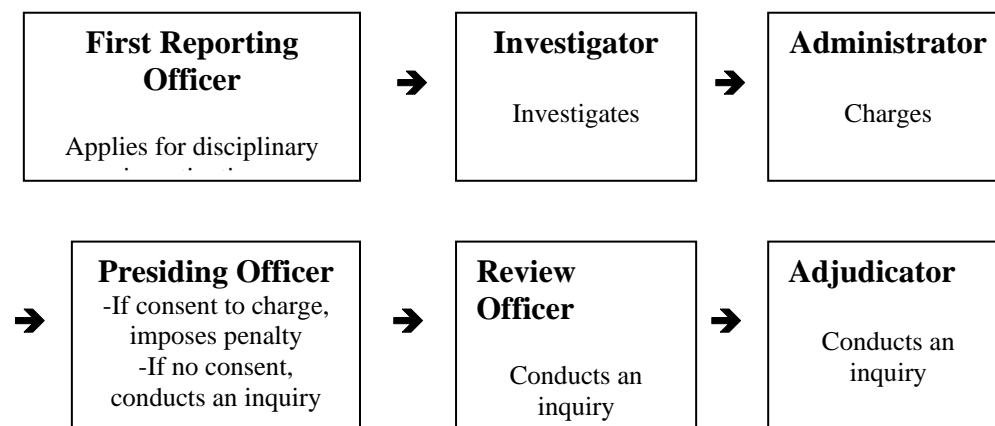
Legislation

Corrections Management Act 2007 (CMA), chapter 10 and 11.

Scope

The process commences when a disciplinary breach is alleged and ends when either a disciplinary action is taken or a decision is made to end the disciplinary process.

Summary Flow Chart



Procedure

1 Commencing a disciplinary process

The Corrections Officer who commences the disciplinary process (the First Reporting Officer) will normally be a CO1. If a CO1 did not witness the disciplinary incident, a Corrections Officer of a higher rank may commence the process. In all cases however, only one Corrections Officer should commence the process.

Step	Action	Responsibility
1	All Officers who witnessed or were involved in the incident (other than the First Reporting Officer) to complete an 'officer's report form'	Corrections Officers
2	First Reporting Officer determines whether there has been a disciplinary breach	CO1
3	First Reporting Officer decides whether to do one or more of the following: <ul style="list-style-type: none"> • counsel, warn and/or reprimand the prisoner and complete an 'officer's warning form' • take no further disciplinary action and complete an 'officer's report form' • take further disciplinary action by completing an 'application for disciplinary investigation' 	CO1
4	Where appropriate, counsel, warn and/or reprimand the prisoner and complete an 'officer's warning form'	CO1
5	Put the prisoner in investigative segregation if necessary	CO2/CO3
6	If taking disciplinary process further, complete an 'application for disciplinary investigation' and give it to the CO2 (Investigator) before the shift ends	CO1
7	Make a case note on JOIST	CO1
8	Notify a CO2 and CO3 of the decision	CO1

Step 1

All Officers who witnessed or were involved in the incident (other than the First Reporting Officer) to complete an 'officer's report form'

Step 2

For disciplinary action to be taken, the Corrections Officer must believe, on reasonable grounds that one or more of the disciplinary breaches listed below have occurred.

Step 3

If the First Reporting Officer believes on reasonable grounds that a disciplinary breach has occurred, then he/she may decide to do **one or more** of the following:

- counsel, warn and/or reprimand the prisoner and complete a 'officer's warning form';
- take no further disciplinary action and complete an 'officer's report form' which includes reasons for the decision to take no further action;
- complete an 'application for disciplinary investigation' and give it to the CO2 in charge (the Investigator).

Disciplinary Breaches

- a) contravening a direction given to the prisoner by the Chief Executive or a Corrections Officer under the CMA or the *Crimes (Sentence Administration) Act 2005*;
- b) being in a prohibited area, without the Chief Executive's approval;
- c) smoking in a non-smoking area at a correctional centre;
- d) taking (in any way) alcohol or a drug into the prisoner's body;
- e) providing a positive test sample for alcohol or a drug when directed, under the CMA or the *Crimes (Sentence Administration) Act 2005*, to provide a test sample;
- f) making, possessing, concealing, knowingly consuming or dealing with a prohibited thing, without the Chief Executive's approval;
- g) gambling;
- h) being disrespectful or abusive towards a Corrections Officer in a way that undermines the Officer's authority;
- i) being disrespectful or abusive towards someone in a way that is likely to provoke a person to be violent;
- j) intentionally or recklessly engaging in conduct that endangers, or may endanger, the health or safety of the prisoner or anyone else;
- k) fighting;
- l) assaulting someone else;
- m) theft;
- n) possessing stolen property;
- o) possessing or dealing in things without the Chief Executive's approval;
- p) intentionally or recklessly damaging or destroying property belonging to someone else;
- q) interfering with property belonging to someone else, without approval by the owner of the property;
- r) interfering with anyone's personal monitoring device without the chief executive's approval;
- s) creating or participating in a disturbance, or other activity, likely to endanger security or good order at a correctional centre;
- t) contravening a condition of any of the following:
 - i) a direction under section 204 (Local leave directions);
 - ii) a local leave permit;
 - iii) an interstate leave permit;
- u) doing anything for the purpose of escaping, or assisting a prisoner to escape, from detention;
- v) offering, giving or taking a bribe;
- w) attempting, or assisting anyone else attempting, to commit another disciplinary breach;
- x) threatening to do anything mentioned in paragraphs (j), (k), (l), (p) or (s);

Step 4

If the First Reporting Officer decides to counsel, warn and/or reprimand the prisoner instead of taking further disciplinary action, he/she must complete an 'officer's warning form'. This form shall be completed in relation to all incidents where further disciplinary investigation was considered but not pursued. The 'officer's warning form' should be given to the CO2 for filing.

Step 5

Put the prisoner in investigative segregation if necessary. Refer to part 7 below on investigative segregation.

Step 6

If the First Reporting Officer decides that the breach requires further action, he/she completes an 'application for disciplinary investigation'. This must be given to the CO2 (Investigator) as soon as practicable and no later than the end of the shift. If this occurs, the First Reporting Officer need not complete an 'officer's warning form'.

Step 7

In all cases – whether a decision was made to counsel, warn, reprimand, take no further disciplinary action or take further disciplinary action – a case note must be made on JOIST.

The case note must state the alleged breach, the Officer's action/response and any other relevant details.

Step 8

Notify a CO2 and CO3 of the decision.

2 Functions of the CO2 (Investigator)

Step	Action	Responsibility
1	Investigate	CO2 (Investigator)
2	Decide whether to do one or more of the following: <ul style="list-style-type: none">• counsel, warn and/or reprimand the prisoner;• take no further disciplinary action;• forward the 'investigator's report' to the CO3 (Administrator) for further action. OR, refer the matter to the Chief Police Officer	CO2 (Investigator)
3	Where appropriate, counsel, warn or reprimand the prisoner	CO2 (Investigator)
4	Put the prisoner in investigative segregation if necessary. If already secured, determine whether it is necessary for this to continue	CO2 (Investigator)
5	Complete an 'investigator's report'	CO2 (Investigator)
6	Where appropriate, refer the matter to the Chief Police Officer	CO2 (Investigator)
7	If further action is required, give a copy of the 'investigator's report' to the CO3 (Administrator) as soon as practicable	CO2 (Investigator)
8	Make a case note on JOIST and file all documents in the disciplinary file	CO2 (Investigator)
9	Notify the CO3 of the decision and details of investigative segregation if required	CO2 (Investigator)
10	Compile all documents relating to the matter in the prisoner's disciplinary file	CO2 (Investigator)

Step 1

An Investigator in most situations should be a CO2, unless otherwise specified by the Superintendent. The Superintendent may allocate a person other than a Corrections Officer (e.g. Business, Policy and Coordination officer) to act as Investigator.

The CO2 (Investigator) must explain the disciplinary process to the prisoner. The 'discipline information for prisoners' sheet should be used during this explanation.

As part of his/her investigation, the CO2 (Investigator) must consider all documents in the disciplinary file. He/she must interview the prisoner, and make any other investigation considered appropriate. This may include viewing surveillance videos, asking questions of individuals involved in the incident or reviewing the reasons provided by the CO1 for his/her decision.

Step 2

The CO2 (Investigator) may do **one or more** of the following:

- counsel the prisoner, warn him/her about committing a disciplinary breach and/or reprimand him/her;
- take no further disciplinary action in relation to the report and provide reasons for the decision to take no further action in the 'investigator's report';
- take further action by forwarding the 'investigator's report' to the CO3 (Administrator).

OR, instead of completing an 'investigator's report', refer the matter to the Chief Police Officer. While the final decision rests with the Investigator, this course can only be taken in consultation with the Superintendent to seek his/her views.

Deciding whether to refer the matter to the Chief Police Officer:

For a matter to be referred to the Police, there must be evidence of a criminal offence. The following factors should also be considered:

- the classification of the offence under relevant laws;
- the nature of the offence; and
- the severity of the punishment.

Conduct which gives rise to a disciplinary breach may also be criminal. To prevent double jeopardy, the following rules apply:

- A criminal prosecution cannot commence or continue if disciplinary action has been taken to address the behaviour, incident or act.
- A disciplinary process cannot commence or continue if a criminal prosecution is being pursued to address the behaviour, incident or act.
- Disciplinary action cannot be imposed upon a prisoner if the prisoner has been convicted or found guilty of a criminal offence relating to the same behaviour, incident or act.
- If a criminal prosecution (including investigation by the Police or DPP) does not occur, disciplinary proceedings may commence in relation to the same behaviour, incident or act.

Step 3

Where appropriate, counsel, warn or reprimand the prisoner.

Step 4

Put the prisoner in investigative segregation if necessary. If already secured, determine whether it is necessary for this to continue. Refer to part 7 below on investigative segregation.

Step 5

An 'investigator's report' must be written in all cases. This applies even if the matter is not referred to the CO3 (Administrator) for further investigation.

Step 6

A referral to the Chief Police Officer is made by providing him/her with a copy of the 'investigator's report'.

Step 7

If further action is required, give a copy of the 'investigator's report' to the CO3 (Administrator) as soon as practicable.

Step 8

A case note must be made on JOIST. The case note must state the alleged breach, the Officer's action/response and any other relevant details.

Step 9

Notify the CO3 of the decision and details of investigative segregation if required.

Step 10

The CO2 (Investigator) has responsibility for compiling all relevant documents in the prisoner's disciplinary file. Relevant documents include:

- all case notes relating to the matter;
- all officers' reports relating to the matter;
- application for disciplinary investigation;
- investigator's report;
- administrator's report;
- presiding Officer's report;
- review Officer's report;
- charge notice;
- inquiry notice(s);
- inquiry outcome notice(s);
- investigative segregation forms (if any);
- separate Confinement Sheet (if any);
- request forms by or on behalf of the prisoner for review of decisions made;
- evidence collected in relation to the matter.

3 Functions of the CO3 (Administrator)

Step	Action	Responsibility
1	Investigate	CO3 (Administrator)
2	Decide whether to do one or more of the following:	CO3

	<ul style="list-style-type: none"> • counsel, warn and/or reprimand the prisoner; • take no further disciplinary action; • issue the prisoner with a ‘charge notice’; OR, refer the matter to the Chief Police Officer or the DPP	(Administrator)
3	Where appropriate, counsel, warn and/or reprimand the prisoner	CO3 (Administrator)
4	Put the prisoner in investigative segregation if necessary. If already segregated, determine whether it is necessary for this to continue	CO3 (Administrator)
5	Where appropriate, refer the matter to the Chief Police Officer or the DPP	CO3 (Administrator)
6	If the prisoner should be charged, complete a ‘charge notice’ which includes the disciplinary action recommended to the CO4 (Presiding Officer)	CO3 (Administrator)
7	Issue the ‘charge notice’ to the prisoner and ask the prisoner to complete his/her section	CO3 (Administrator)
8	Whether the prisoner has accepted the charge or appealed, contact the Superintendent requesting that he appoint a CO4 (Presiding Officer)	CO3 (Administrator)
9	Complete an ‘administrator’s report’	CO3 (Administrator)
10	Make a case note on JOIST and file all documents in the disciplinary file	CO3 (Administrator)
11	Notify the CO4 in charge of the decision and details of investigative segregation if used	CO3 (Administrator)

Step 1

An Administrator in most situations should be the CO3 unless otherwise specified by the Superintendent. The Superintendent may allocate a person other than a Corrections Officer (e.g. Business, Policy and Coordination officer) to act as Administrator.

The CO3 (Administrator) must consider the ‘investigator’s report’, the ‘application for disciplinary investigation’ and all other documentation in the disciplinary file. The Officer must also make any investigation considered appropriate to determine whether the breach warrants a disciplinary charge. This may include viewing surveillance videos, asking questions of individuals involved in the incident or reviewing the reasons provided by the First Reporting Officer and Investigator.

Step 2

The CO3 (Administrator) may do **one or more** of the following:

- counsel, warn and/or reprimand the prisoner ;
- take no further disciplinary action in relation to the report and provide reasons for the decision to take no further action in the ‘administrator’s report’;
- issue the prisoner with a ‘charge notice’.

OR, instead of issuing a charge notice, refer the matter to the Chief Police Officer or the DPP if this has not been done already. While the final decision rests with the

Administrator, this course can only be taken after consultation with the Superintendent to seek his/her views.

Deciding whether to refer the matter to the Chief Police Officer/DPP:

Refer to part 2, step 2 above for guidance as to when matters should be referred for criminal investigation. The same considerations apply whether referring to the DPP or the Chief Police Officer.

Deciding whether to complete a charge notice:

The following factors should be considered in determining whether the prisoner should be charged:

- whether charging the prisoner will improve his/her behaviour in the future;
- the seriousness of the alleged breach;
- the strength of the evidence suggesting that the accused committed the breach;
- whether charging the prisoner will promote good order in the prison;
- whether the action was intentional or accidental;
- whether charging the prisoner is the least intrusive measure available to achieve the desired end;
- whether the prisoner was aware of the relevant rules;
- the past behaviour of the prisoner.

Step 3

Where appropriate, counsel, warn and/or reprimand the prisoner.

Step 4

Put the prisoner in investigative segregation if necessary. If already segregated, determine whether it is necessary for this to continue. Refer to part 7 below on investigative segregation.

Step 5

Referral to the Chief Police Officer or the DPP for criminal investigation must be made by providing the relevant body with both the ‘investigator’s report’ and the ‘administrator’s report’.

Step 6

If it is determined that the conduct warrants the imposition of a disciplinary charge then a ‘charge notice’ must be completed.

The ‘charge notice’ must include a recommendation as to the disciplinary action that the CO3 (Administrator) believes the CO4 (Presiding Officer) should carry out. This must be proportionate to the breach. For guidance on the proportionate and appropriate disciplinary action, the CO3 (Administrator) must refer to the ‘schedule of penalties’.

The CO3 (Administrator) may recommend that the prisoner be warned or reprimanded. Additionally, the following penalties (including a combination of these) may be recommended:

- A fine not exceeding \$500
- Withdrawal of privileges
 - A privilege is any benefit a prisoner has beyond the minimum entitlements set out in Chapter 6 of the CMA.
- Requirement to perform extra work
- Separate confinement for 3, 7 or 28 days.
- Reparation to a person who suffered loss as a result of the disciplinary breach not exceeding \$100

Step 7

To charge a prisoner, the CO3 (Administrator) must give the prisoner a 'charge notice' and request that he/she fill his/her section out within 24 hours of receiving it. The prisoner must be provided with a copy of the charge notice.

The prisoner must have an opportunity to respond to the charge. The prisoner must decide whether to consent to the charge and to accept the disciplinary action proposed or to request that the CO4 (Presiding Officer) conduct an inquiry into the matter.

The CO3 (Administrator) can extend the period allowed for the prisoner to decide whether to consent to the charge or request review. If this power is exercised, the CO3 (Administrator) must notify the prisoner in writing.

Step 8

The Superintendent will assign a Deputy Superintendent or the SOG A or B of Business, Policy and Coordination or a Corrections Officer who has not been previously involved, to the role of Presiding Officer.

Step 9

Complete an 'administrator's report'.

Step 10

A case note must be made on JOIST. The case note must state the alleged breach, the Officer's action/response and any other relevant details.

4 Disciplinary action by the CO4 (Presiding Officer) (admitted breach)

This section applies when the prisoner accepts the 'charge notice' and the CO3 (Administrator)'s recommended disciplinary action, thereby agreeing to have the matter dealt with by consent.

Step	Action	Responsibility
1	Ensure that the prisoner has indicated on the 'charge notice' that he/she admits the charge and accepts the recommended disciplinary action	CO3 (Administrator)
2	Complete a 'notice of resolution by consent' form and provide a copy to the prisoner	CO4 (Presiding Officer)
3	Take the disciplinary action recommended in the 'charge notice'	CO3 (Presiding officer)
4	Complete a 'presiding officer's report'	CO4 (Presiding Officer)

5	Make a case note in JOIST and file all documents in the disciplinary file	Presiding Officer (CO3)
6	Notify the Superintendent that the charge has been carried out	CO4 (Presiding Officer)
7	If separate confinement is used, contact corrections health to notify them of this	CO4 (Presiding Officer)
8	If separate confinement is used, the prisoner's condition must be monitored and recorded at least twice daily on a 'separate confinement sheet'	CO1
9	If separate confinement is used, the 'separate confinement sheet' must be reviewed daily.	CO3

Step 1

Ensure that the prisoner has indicated on the 'charge notice' that he/she admits the charge and accepts the recommended disciplinary action.

Step 2

The CO4 (Presiding Officer) must promptly provide the prisoner with a completed 'notice of resolution by consent' form informing him/her that the CO3 (Administrator)'s recommended disciplinary action will be carried out.

Step 3

The action taken by the CO4 (Presiding Officer) must be that recommended in the 'charge notice'. This is because the prisoner has agreed to have the matter dealt with by consent. In exchange for not taking the matter further, the prisoner has accepted the action recommended in the 'charge notice'.

Step 4

Complete a 'presiding officer's report'.

Step 5

A case note must be made on JOIST. The case note must state the alleged breach, the Officer's action/response and any other relevant details.

Step 6

Notify the Superintendent that the charge has been carried out.

Step 7

If separate confinement is used, contact Corrections Health to notify them that a prisoner has been placed on separate confinement. A doctor must examine the prisoner as soon as practicable after the separate confinement starts and ends.

Step 8

If separate confinement is used, the prisoner's condition must be monitored and recorded at least twice daily on a 'separate confinement sheet'.

Step 9

If separate confinement is used, the 'separate confinement sheet' must be reviewed daily to ensure that any concerns raised by the CO1 are addressed.

5 Disciplinary inquiry and action by CO4 (Presiding Officer) (contested breach)

If the prisoner does not admit to the alleged disciplinary breach or does not accept the CO3 (Administrator)'s recommended disciplinary action, the matter must be referred to a CO4 (Presiding Officer) for him/her to conduct an inquiry.

Step	Action	Responsibility
1	Allocate one or more CO4 (Presiding Officer)(s)	Superintendent
2	Conduct an inquiry into the alleged disciplinary breach and decide whether to: <ul style="list-style-type: none"> • take disciplinary action; or • dismiss the charge; or • refer the matter to the Chief Police Officer or DPP 	CO4 (Presiding Officer)
3	Where appropriate, refer the matter to the Chief Police Officer or the DPP	CO4 (Presiding Officer)
4	If the CO4 (Presiding Officer) decides to take disciplinary action, decide on the appropriate action and implement it	CO4 (Presiding Officer)
5	Complete a 'presiding officer's report'	CO4 (Presiding Officer)
6	Make a case note on JOIST and file all documents on the disciplinary file	CO4 (Presiding Officer)
7	Notify the Superintendent of the inquiry and its results	CO4 (Presiding Officer)
8	If separate confinement is used, the prisoner must be examined by a doctor as soon as practicable after the separate confinement starts and ends	CO4 (Presiding Officer)
9	If separate confinement is used, the prisoner's condition must be monitored and record at least twice daily on a 'separate confinement sheet'	CO1

Step 1

Allocate one or more CO4 (Presiding Officer)(s).

Step 2

Refer to part 8 below on conducting an inquiry.

After conducting an inquiry, the CO4 (Presiding Officer) may:

- take disciplinary action if the charges are proven; or
- dismiss the charge
 - a. if the charges are not proven; or
 - b. if there are other reasonable grounds to dismiss the charge, and it would be appropriate to do so; or
- if it has not already been referred and a disciplinary action has not been taken, refer the matter to the Chief Police Officer or the DPP. While the final decision rests with the Presiding Officer, this course can only be taken after consultation with the Superintendent to seek his/her views.

Step 3

Refer the matter to the Chief Police Officer or the DPP if appropriate.

Refer to the part 2, step 2 above for guidance as to when matters should be referred for criminal investigation. The same considerations apply whether referring to the DPP or the Chief Police Officer.

The referral must be made in writing and accompanied by the ‘presiding officer’s report’.

Step 4

If the CO4 (Presiding Officer) decides to take disciplinary action, he/she need not follow the recommendation of the CO3 (Administrator). The disciplinary action taken must however be proportionate to the breach. The schedule of penalties must be referred to for guidance on whether the disciplinary action is proportionate. Disciplinary action may include warning or reprimanding the prisoner. Additionally, the following penalties (including a combination of these) may be imposed:

- A fine not exceeding \$500
- Withdrawal of privileges
 - A privilege is any benefit a prisoner has beyond the minimum entitlements set out in Chapter 6 of the CMA.
- Requirement to perform extra work
- Separate confinement for 3, 7 or 28 days.
- Reparation to a person who suffered loss as a result of the disciplinary breach not exceeding \$100

If a prisoner is charged with two or more disciplinary breaches which arise out of the same conduct, the total penalty imposed for the breaches must not, for any particular kind of penalty, be more than the maximum penalty that may be imposed for any one of those breaches.

Step 5

Complete a ‘presiding officer’s report’.

Step 6

A case note must be made on JOIST. The case note must state the alleged breach, the Officer’s action/response and any other relevant details.

Step 7

Notify the Superintendent of the inquiry and its results.

Step 8

If separate confinement is used, contact Corrections Health to notify them that a prisoner has been placed on separate confinement. A doctor must examine the prisoner as soon as practicable after the separate confinement starts and again after the separate confinement ends.

Step 9

If separate confinement is used, the prisoner's condition must be monitored and record at least twice daily on a 'separate confinement sheet'.

6 Disciplinary inquiry and action by Superintendent (Review Officer)

This section applies if the prisoner appeals the CO4 (Presiding Officer)'s decision by requesting a review of that decision by the Superintendent (Review Officer). Disciplinary action commences even where the prisoner has applied for review of the disciplinary decision.

Step	Action	Responsibility
1	Allocate one or more Review Officer(s)	Superintendent
2	Conduct an inquiry into the disciplinary breach charged and decide whether to: <ul style="list-style-type: none"> confirm the original decision; vary the decision; or set aside the decision and make a new decision 	Superintendent (Review Officer)
3	Complete a 'review officer's report'	Superintendent (Review Officer)
4	If the prisoner wishes to apply to a Magistrate (Adjudicator) to review the decision, forward the application to the Magistrate as soon as practicable	Superintendent (Review Officer)
5	Make a case note on JOIST and file all documents in the disciplinary file	Superintendent (Review Officer)
6	If separate confinement is used, the prisoner must be examined by a doctor as soon as practicable after the separate confinement starts and ends	Superintendent (Review Officer)
7	If separate confinement is used, the prisoner's condition must be monitored and recorded at least twice daily on a 'separate confinement sheet'	CO1

Step 1

The Review Officer will be the Superintendent unless exceptional circumstances exist, for example where the Superintendent has acted as an Investigator, Administrator or Presiding Officer in relation to the same incident.

If the Superintendent is unable to act as Review Officer, he/she will assign the Deputy Superintendent, and/or the SOG A or B of Business, Policy and Coordination to the role. Persons will be ineligible for this assignment if they have acted as Investigators, Administrators or Presiding Officers in relation to the same incident.

The Superintendent may assign one or more Review Officer(s), depending on the circumstances.

Step 2

The Superintendent (Review Officer) must conduct a further inquiry to review the CO4 (Presiding Officer)'s decision. Refer to part 8 below on conducting an inquiry.

After conducting an inquiry the Superintendent (Review Officer) will:

- confirm the original decision;

- vary the decision; or
- set aside the decision and make a new decision.

If the Superintendent (Review Officer) decides to vary or set aside and replace the CO4 (Presiding Officer)'s decision, the Superintendent (Review Officer) can impose the same disciplinary actions as were available to the CO4 (Presiding Officer). For a list of available disciplinary actions, refer to part 5, step 4 above.

If a prisoner is charged with two or more disciplinary breaches which arise out of the same conduct, the total penalty imposed for the breaches must not, for any particular kind of penalty, be more than the maximum penalty that may be imposed for any one of those breaches.

Step 3

Complete a 'review officer's report'.

Step 4

A Magistrate (Adjudicator) can further review a decision made by the Superintendent (Review Officer) upon request by a prisoner.

The prisoner must make an application no later than 7 days after the day the prisoner is informed of the decision.

Disciplinary action commences even where the prisoner has applied for review of the disciplinary decision.

Step 5

A case note must be made on JOIST. The case note must state the alleged breach, the Officer's action/response and any other relevant details.

Step 6

If separate confinement is used, contact Corrections Health to notify them that a prisoner has been placed on separate confinement. A doctor must examine the prisoner as soon as practicable after the separate confinement starts and ends.

Step 7

If separate confinement is used, the prisoner's condition must be monitored and recorded at least twice daily on a 'separate confinement sheet'.

7 Investigative segregation

Step	Action	Responsibility
1	Decide whether to place a prisoner(s) on investigative segregation	CO2 (Investigator), CO3 (Administrator)
2	Complete the 'investigative segregation prisoner notice' form and provide the prisoner with a copy immediately	As above
3	Complete the 'investigative segregation' form	As above
4	Review the investigative segregation order upon request	CO4 or

	by the prisoner and/or upon the prisoner's transfer to another correctional centre resulting in a change to his/her accommodation	Superintendent
5	Remove the prisoner from investigative segregation on either of the following days whichever comes earlier: <ul style="list-style-type: none"> • 7th day after the day the direction is given; • day the Administrator makes his/her decision whether to take no further disciplinary action, counsel, warn, reprimand, charge the prisoner or refer the matter for criminal investigation 	CO2 (Investigator), CO3 (Administrator)
6	If a prisoner wishes to make an application to a Magistrate (Adjudicator) to review the decision for investigative segregation, forward the application to the Magistrate as soon as practicable	CO3

Step 1

A decision to direct the investigative segregation of a prisoner should be made in consultation with the Deputy Superintendent as soon as is practicable.

Investigative segregation should only be used to enable the temporary separation of prisoners during an investigation to ensure that witnesses and victims of any breach are protected and the reliability of the investigation is upheld. It must **not** be used as a penalty for the disciplinary breach.

A direction for investigative segregation will be made if the opportunity for the prisoner to associate with anyone else creates, or is likely to create, a risk of:

- harm, or threatened harm, to the prisoner or anyone else; or
- the perverting, or attempted perverting, of an investigation; or
- undermining security or good order at a correctional centre.

Investigative segregation may include securing the prisoner(s) involved in their cell/ accommodation or the relocation of the prisoner(s) within the correctional centre.

Step 2

Complete an 'investigative segregation prisoner notice' form and immediately provide the prisoner with a copy. Place the original in the disciplinary file.

Step 3

Complete the 'investigative segregation' form.

Step 4

The Deputy Superintendent or Superintendent must review a decision to place a prisoner in investigative segregation:

- if the prisoner requests review; and
- before any transfer of the prisoner to another correctional centre resulting in a change to that prisoner's accommodation.

An 'investigative segregation review' form should be used when a review takes place.

After reviewing a direction for investigative segregation, the Deputy Superintendent or Superintendent will:

- confirm the direction; or
- make a further direction for investigative segregation; or
- revoke the direction if the direction is no longer necessary or prudent.

The direction for the investigative segregation of a prisoner is not affected by a prisoner's application for review until the Deputy Superintendent or Superintendent makes a decision.

Step 5

Remove the prisoner from investigative segregation on either of the following days whichever comes earlier:

- 7th day after the day the direction is given;
- day the Administrator makes his/her decision whether to take no further disciplinary action, counsel, warn, reprimand, charge the prisoner or refer the matter for criminal investigation.

Step 6

A Magistrate (Adjudicator) may review a decision to put a prisoner under investigative segregation if the prisoner requests such a review.

The prisoner must make an application no later than 7 days after the day the prisoner is provided with the 'investigative segregation prisoner notice' form.

An investigative segregation direction is not affected by a prisoner's application to a Magistrate (Adjudicator) for review until the Magistrate (Adjudicator) makes a decision.

8 Conducting an inquiry

Inquiries are relevant to parts 5 and 6 of this procedure. An inquiry is an administrative process which must be conducted with as little formality as a proper consideration of the charge allows. The characteristic which distinguishes an inquiry from investigations conducted by the Investigator or the Administrator is that the Officer conducting an inquiry may choose to hold a hearing. During a hearing, the accused is entitled to be present, to be heard, to examine and cross-examine witnesses and to make submissions. The Officer may require that the accused or anyone else appears at a hearing.

An inquiry may be conducted by the following people:

- CO4 (Presiding Officer)
- Superintendent (Review Officer)
- Magistrate (Administrator)

Step	Action	Responsibility
1	Complete and provide the prisoner with an 'inquiry notice'	CO4 (Presiding Officer),

		Superintendent (Review Officer),
2	Review all documents in the disciplinary file and consider any submissions provided by the prisoner	CO4 (Presiding Officer), Superintendent (Review Officer),
3	Comply with minimum requirements of an inquiry	CO4 (Presiding Officer), Superintendent (Review Officer),
4	Decide whether to hold a hearing for the inquiry. If so, conduct hearing as per Part 11.3 of the CMA.	CO4 (Presiding Officer), Superintendent (Review Officer),
5	Provide written requests for formal written report(s) about the accused if considered necessary	CO4 (Presiding Officer), Superintendent (Review Officer),
6	Provide written notice requesting stated information, documents and/or particular things relevant to the inquiry if considered necessary	CO4 (Presiding Officer), Superintendent (Review Officer),
7	Complete an 'inquiry outcome notice' and provide the accused with a copy as soon as possible	CO4 (Presiding Officer), Superintendent (Review Officer),

Step 1

Fill out an 'inquiry notice'. Provide the prisoner with a copy and place a copy in the disciplinary file. Give the prisoner an opportunity to make submissions.

A Submission can be in any form acceptable to the officer conducting the inquiry (i.e. oral, written).

Step 2

Consider any submissions provided by the prisoner prior to any deadline set in the 'inquiry notice' form.

Step 3

The inquiry must:

- be an administrative process which provides natural justice to the prisoner;
- involve decisions determined on the balance of probabilities (i.e. decision maker must be satisfied that the existence of a fact alleged is more probable than not);
- be conducted with as little formality and technicality as possible; and
- not be open to the public, unless the Officer conducting the inquiry decides otherwise.

The person conducting the inquiry must keep a written record of that inquiry including details of investigations and decisions. This record will be contained in the relevant report (i.e. the 'presiding officer report' or the 'review officer's report').

Step 4

If it is decided that a hearing should be held, the person conducting the inquiry must issue a hearing notice to:

- the prisoner accused of committing a disciplinary breach; and
- the Chief Executive.

The prisoner accused of breaching discipline is entitled to be present at the hearing, to be heard, to examine and cross-examine witnesses and to make submissions

Step 5

As part of the inquiry process, the person conducting the inquiry can seek reports from any of the following:

- the Chief Executive;
- the NSW Commissioner of Corrective Services if the accused has been detained in a NSW correctional centre;
- the DPP;
- another Corrections Officer or a public servant of the ACT.

A request for a report must be made in writing. The person asked for a report must provide a report.

Step 6

The Corrections Officer conducting the inquiry can ask for particular information, particular documents or particular things from people with a relevant connection to the alleged disciplinary breach.

The request for information or documents must be made in writing.

Step 7

Complete an 'inquiry outcome notice', provide the prisoner with a copy and place a copy in the disciplinary file. Notify the prisoner that if he/she wishes to have the decision reviewed, an application should be made no later than 7 days after being given the 'inquiry outcome notice'.

If the inquiry was conducted by a CO4 (Presiding Officer), the prisoner applies to the Superintendent (Review Officer) for review. If the inquiry was conducted by the Superintendent (Review Officer), the prisoner applies to the Magistrate (Adjudicator) for review.

Disciplinary action commences even where the prisoner has applied for review of the disciplinary decision.

Forms/Templates

Application for Disciplinary Investigation

Investigator's Report

Charge Notice

Inquiry Notice and Inquiry Outcome Notice

Administrator's Report

Presiding Officer's Report

Notice of Resolution by Consent
Review Officer's Report
Investigative Segregation Prisoner Notice Form
Investigative Segregation Form
Investigative Segregation Review (Superintendent) Form
Separate Confinement Sheet
Officer's Report Form
Officer's Warning Form
Discipline Information for Prisoners

Related policies and procedures

Prisoner Discipline Policy