

Australian Capital Territory

Corrections Management (Segregation) Policy 2014 (No 1)

Notifiable instrument NI2014-544

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 2014 (No 1)*.

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.

4 Revocation

This instrument revokes notifiable instruments NI2008-589 and NI2009-161.

Bernadette Mitcherson
Executive Director
ACT Corrective Services
21 October 2014



**Alexander Maconochie Centre (AMC)
Court Transport Unit (CTU)**



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

Segregation may be achieved, for example, through the confinement of a detainee to a particular location or the restriction of a detainee’s association with particular detainees.

Segregation does not include:

- the placement of detainees in the ‘mainstream’ population; or
- the placement of a detainee on protection.

Segregation of a detainee can result from a direction of a Area Manager, Operations Manager or General Manager, Custodial Operations.

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

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

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

Segregation of a detainee 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 detainee) at a correctional centre; or
- protect the security or good order at a correctional centre.

When segregating a detainee 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 detainee.

Notification of segregation

The detainee 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 detainees

A detainee 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 detainee 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 detainees between ACT correctional centres

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

Internal review of segregation directions

The General Manager, Custodial Operations must review segregation directions:

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

The General Manager, Custodial Operations may review a segregation direction at any time or on application by the detainee subject to a direction. During a review, the General Manager, Custodial Operations 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 ACT Mental Health staff.

After reviewing the direction, the General Manager, Custodial Operations may:

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

External review of segregation direction

The detainee may request external review of the segregation direction by an adjudicator.

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

The General Manager, Custodial Operations must be made aware of all requests for external review. The General Manager, Custodial Operations 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 detainee 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 General Manager, Custodial Operations, 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 detainee 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 detainee was segregated for health reasons, regard must be given to any advice provided by a Corrections Health doctor or ACT Mental Health staff during any review of that direction.

Forms/Templates

Segregation Form

Related policies and procedures

Detainee Discipline Procedure

Human Rights Policy

Medical Treatment Policy

Prisoner at Risk Policy

Prisoner at Risk Procedure