

Australian Capital Territory

# Corrections Management (Police Interviews with Detainees) Policy 2019

Notifiable instrument NI2019–176

made under the

Corrections Management Act 2007, s14 (Corrections policies and operating procedures)

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**1 Name of instrument**

This instrument is the *Corrections Management (Police Interviews with Detainees) Policy 2019*.

**2 Commencement**

This instrument commences on the day after its notification day.

**3 Policy**

I make this policy to facilitate the effective and efficient management of correctional services.

**3 Revocation**

This policy revokes the *Corrections Management (Police Interviews with Prisoners) Policy 2009* [NI2009-140].



Jon Peach  
Executive Director  
ACT Corrective Services  
2 April 2019

# POLICE INTERVIEWS WITH DETAINEES

POLICY NO. D8

ACT CORRECTIVE SERVICES



**ACT**  
Government

Justice and Community Safety

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## 1 PURPOSE

ACT Corrective Services (ACTCS) is committed to providing appropriate information and assistance to detainees relating to police interviews while in custody.

This policy establishes instructions for the management of investigator access to detainees in the custody of ACTCS.

## 2 SCOPE

This policy applies to all correctional centres in the ACT.

## 3 DEFINITIONS

### Investigator

A sworn member of the Australian Federal Police (AFP), a State or Territory police force, or investigative body authorised under legislation.

## 4 PRINCIPLES

- 4.1 The General Manager Custodial Operations will ensure that police and investigative bodies are provided with access to detainees in a correctional centre in accordance with this policy and the *Memorandum of Understanding between the Australian Federal Police and Justice and Community Safety Directorate (under the auspices of ACT Corrective Services) on Working Relationships*.
- 4.2 Investigators can enter a correctional centre to:
  - a. conduct an interview with a detainee;
  - b. issue or serve judicial notices or documents on a detainee; or
  - c. obtain a court sanctioned or legislated forensic sample from a detainee.
- 4.3 A detainee has the right to:
  - a. decline participation in an interview or leave of absence at any time;
  - b. communicate with a legal representative; and
  - c. Aboriginal and Torres Strait Islander detainees have the right for an interview friend to be present during an interview.
- 4.4 It is the responsibility of the investigator to ensure a detainee is aware of their rights prior to the commencement of an interview.

- 4.5 The General Manager Custodial Operations will designate locations for police interviews in a correctional centre.
- 4.6 The Executive Director may approve a detainee to be absent from a correctional centre to assist an investigator under section 7, where:
- a. the purpose of the leave cannot be met at a correctional centre; and
  - b. appropriate risk assessment procedures are in place.
- 4.7 The General Manager Custodial Operations will ensure that a copy of any judicial notice or document served on a detainee under this policy is stored on the detainee's electronic record system and a relevant case note is recorded.
- 4.8 A custodial officer:
- a. must not listen to or record any communications between a detainee and their legal representative in accordance with section 51 of the Corrections Management Act 2007 (ACT); and
  - b. must not listen to or record any communications between a detainee and an investigator, unless the investigator has provided prior express agreement relating to the interview.

## 5 PRIOR TO AN INTERVIEW

- 5.1 Where a detainee indicates their refusal to participate in an interview, staff must inform the investigator of the detainee's refusal as soon as practicable and record the outcome on the detainee's electronic record system.
- 5.2 Prior to an interview, the Officer-in-Charge of the area is responsible for ensuring that (D8.F2: Investigator Interview Form):
- a. the detainee must be informed of their right to legal representation;
  - b. a telephone call must be facilitated if legal representation or other assistance is requested by the detainee; and
  - c. Aboriginal and Torres Strait Islander detainees must be informed of their right to be accompanied by an interview friend.
- 5.3 The following are not permitted to act as an interview friend for a detainee;
- a. any ACTCS employee; or
  - b. a detainee; or
  - c. a current offender.

### **Declining legal representation and other assistance**

- 5.4 Detainees can decline to have a legal representative or interview friend present during an interview.
- 5.5 Staff must record each time a detainee declines under section 5.4, and provide a copy of the D8.F2: Investigator Interview Form to the investigator.
- 5.6 A detainee who has declined legal representation retains the right to contact a legal representative at any time during an interview.

## **6 RECORDING OF INTERVIEWS**

- 6.1 An investigator must provide their own audio and/or video recording equipment in order to record an interview in a correctional centre, in accordance with the Prohibited Things, Restricted, Excess and Non-Standard Items Operating Procedure.
- 6.2 Any recording of an interview provided to a detainee, including a disc recording, will be seized by staff in accordance with the Prohibited Things Declaration, stored in the detainee's property locker and a D9.F1: Seizure Receipt provided to the detainee.
- 6.3 Detainees can request access to an interview recording by completing a Detainee Request Form.

## **7 DETAINEE LEAVE TO ASSIST AN INVESTIGATOR**

- 7.1 An investigator may request leave for a detainee to be absent from a correctional centre in order to assist the investigator under sections 204 or 208-209 of the Corrections Management Act 2007 (ACT). Leave can be local or interstate.
- 7.2 All requests must be submitted using a D8.F1: Investigator Leave Permit Application at least 72 hours prior to the leave unless exceptional circumstances exist.
- 7.3 The investigator should apply directly to the Executive Director via email to ACTCS-Intelligence@act.gov.au.
- 7.4 When deciding whether to grant or refuse a request, the Executive Director will give consideration to section 4.6.
- 7.5 The Admissions Supervisor will ensure that an investigator is provided with appropriate contact details for ACTCS in the event of an incident or emergency.

- 7.6 An investigator must complete the relevant section of the D8.F1: Investigator Leave Permit Application when returning a detainee to the correctional centre.
- 7.7 Custody of a detainee remains with ACTCS at all times during leave in accordance with section 217 of the Corrections Management Act 2007 (ACT).

## 8 RELATED DOCUMENTS

- A – D8.F1: Investigator Leave Permit Application
- B – D8.F2: Investigator Interview Form
- C – Escorts Policy
- D – D9.F1: Seizure Receipt
- E – Detainee Request Form



Jon Peach  
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 ACT Corrective Services  
 2 April 2019

### Document details

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Responsible officer:	General Manager Custodial Operations

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