

Australian Capital Territory

Corrections Management (Detainee Communications) Policy 2020 (No 2)

Notifiable instrument NI2020-231

made under the

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

1 Name of instrument

This instrument is the *Corrections Management (Detainee Communications) Policy 2020 (No 2)*.

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.

4 Revocation

This instrument revokes the *Corrections Management (Detainee Communications) Policy 2020* [NI 2020-197].



Jon Peach
Commissioner
ACT Corrective Services
17 April 2020

DETAINEE COMMUNICATIONS

POLICY NO. D13

ACT CORRECTIVE SERVICES



ACT
Government

Justice and Community Safety

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1 PURPOSE

ACT Corrective Services (ACTCS) is committed to ensuring that detainees can maintain contact with family, friends and legal and professional services while in custody. ACTCS recognises the importance that family ties and maintaining contact with those outside a correctional centre plays in successful reintegration to the community.

This policy establishes instructions for detainee communications in a manner that protects security and good order in a correctional centre, and prevents unauthorised contact with the public.

2 SCOPE

This policy applies to all correctional centres in the ACT.

Where required, the General Manager of a correctional centre will establish operational procedures under this policy.

3 DEFINITIONS

Audio Visual Link (AVL)

A sound and visual system for real-time communication between two (2) locations.

Mail

Postal mail, excludes email.

4 PRINCIPLES

- 4.1 The Deputy Commissioner Custodial Operations (DCCO) will ensure that, as far as practicable, detainees are provided with adequate opportunities to remain in contact with family, friends and others by telephone, mail and email in accordance with section 46 of the *Corrections Management Act 2007 (ACT)*.
- 4.2 Detainee communications with legal and oversight entities are protected in accordance with the *Corrections Management Act 2007 (ACT)*.
- 4.3 The DCCO will establish appropriate arrangements to ensure that the use of communications by detainees does not compromise the security and good order of a correctional centre, and/or the safety of detainees and any other person.
- 4.4 The General Manager (GM) will ensure that detainees have reasonable access to computers for email and access to approved websites. Detainee access to in-cell

computers is determined in accordance with the *Incentives and Earned Privileges Policy*.

- 4.5 Community members who do not wish to be contacted by a detainee will be managed in accordance with the *No-Contact List Policy*.
- 4.6 The DCCO will ensure that:
- a. all documents and records under this policy are retained and disposed of securely in accordance with the *Territory Records Act 2002 (ACT)*; and
 - b. the production of any records of detainee communications by ACTCS to another party is managed to ensure compliance with section 222 of the *Corrections Management Act 2007 (ACT)*.
- 4.7 Staff members authorised to monitor mail, email and telephone communications are required to ensure they hold no real or perceived conflict of interest in relation to the monitoring under the *Ethical Conduct and Dress Standards Policy*.
- 4.8 The Intelligence and Integrity Unit will provide ACT Policing with any detainee communication, except protected communications, that reveals information relating to an offence, in accordance with section 103(4) of the *Corrections Management Act 2007 (ACT)*.
- 4.9 Detainees can request a review of decisions under this policy in accordance with the *Detainee Requests and Complaints Policy*.

5 ON ADMISSION

- 5.1 All detainees can make one (1) telephone call on admission in accordance with section 47(2)(a) of the *Corrections Management Act 2007 (ACT)*.
- 5.2 The Admissions Supervisor will ensure that:
- a. detainees have access to their mobile phone to retrieve telephone numbers and email addresses; and
 - b. detainees are provided with a *D13.F3: Telephone and Email Contact List* to nominate their personal and/or professional contacts.

6 PROTECTED COMMUNICATIONS

- 6.1 Staff must not monitor, read or record any detainee communication to or from the following people or their delegate:
- a. a legal practitioner representing a detainee;
 - b. an official visitor;

- c. the inspector of correctional services;
 - d. the public advocate;
 - e. the integrity commissioner;
 - f. a commissioner exercising functions under the Human Rights Commission Act 2005 (ACT) or Commonwealth legislation; or
 - g. the ombudsman.
- 6.2 Mail under section 6.1 may be opened in accordance with section 8.
- 6.3 Where a staff member exercising a function in accordance with this policy is reading a communication not marked under section 6.1 and forms a view that the communication is protected, they must immediately stop reading.
- 6.4 Where under section 6.3, a record of the communication has been retained on any electronic system, the staff member must inform the Team Leader, Compliance, who is responsible for ensuring the record is removed as soon as possible after being informed.

7 GENERAL RESTRICTIONS ON COMMUNICATION

- 7.1 In accordance with sections 47 and 48 of the Corrections Management Act 2007 (ACT), the GM can restrict or refuse communication to or from a detainee and any person not protected under section 6.1 where there are reasonable grounds to suspect that the communication may:
- a. undermine security or good order at a correctional centre;
 - b. revictimise a victim;
 - c. circumvent any process for investigating complaints or decisions under the Corrections Management Act 2007 (ACT); or
 - d. have the purpose of causing community distress.
- 7.2 In accordance with section 10, detainees will be refused communication with any person who has not expressly consented to being contacted by the detainee.
- 7.3 The GM or delegate will ensure that detainees are not permitted to communicate with the following:
- a. any person on the ACTCS 'no-contact' list for the detainee; or
 - b. in breach of any court order relating to communication between the detainee and any other person.
- 7.4 The relevant Area Manager will ensure that a detainee is informed of a decision to restrict or deny a communication, including the reasons for the decision, as soon

as practicable unless doing so would compromise the safety of the other person, or security at a correctional centre.

- 7.5 Staff will ensure that any restriction or denial under section 7.1 is recorded on a detainee's electronic record system, and includes the reasons for the decision and the date and time the detainee was informed under section 7.4.
- 7.6 Detainees are not permitted to have telephone contact with any ACTCS staff member unless approved by the Commissioner in accordance with a Conflict of Interest Declaration for the maintenance of family ties.
- 7.7 Email contact to the following people or services will be approved:
- a. the office of the GM;
 - b. Sentence Management;
 - c. Ministerial Support Unit;
 - d. Intelligence and Integrity Unit;
 - e. ACT Ombudsman;
 - f. Human Rights Commission;
 - g. Public Advocate;
 - h. Integrity Commissioner;
 - i. Official Visitors; and
 - j. the ACT Magistrates and Supreme Courts.

Community requests

- 7.8 Any member of the public can contact ACTCS in person, or by telephone or mail to request that a detainee no-longer be allowed to contact them.
- 7.9 Staff must confirm requests under section 7.8 by contacting the person using their contact details recorded in the detainee's telephone or email contact list to confirm that they would like to cease contact with the detainee.
- 7.10 Once a request has been confirmed, the detainee's relevant contact list must be amended to remove the person, and the detainee informed in accordance with section 7.4.

Communication between detainees

- 7.11 Communication between detainees must not be authorised under this policy unless the following conditions have been met:
- a. the detainee has submitted a *D13.F2: Inter-Centre Communication Form* including the name of the detainee, their relationship, and reasons for the request;

- b. if the detainee is located at a different correctional centre, the General Manager of that correctional centre has approved the contact;
- c. the Intelligence and Integrity Unit has given preliminary approval for the request to proceed;
- d. the recipient detainee has expressly consented to the contact; and
- e. the Senior Director Operations has authorised the request to proceed (*D13.F2: Inter-Centre Communication Form*).

Segregation and disciplines

7.12 Detainees will receive their minimum entitlements under sections 47, 48, 50, 52, 95 and 188 of the *Corrections Management Act 2007 (ACT)*, and in accordance with the *Management of Segregation and Separate Confinement Policy* and *Discipline Policy* for segregation or following a disciplinary breach.

8 MONITORING

- 8.1 Except for protected communications under section 6, all telephone calls and emails to or from a detainee will be recorded in accordance with sections 103-105 of the *Corrections Management Act 2007 (ACT)*.
- 8.2 The DCCO will establish:
 - a. an automated screening program for all detainee emails; and
 - b. procedures for the monitoring of detainee telephone and email communications.
- 8.3 The DCCO will ensure that the following is established:
 - a. notices in each accommodation unit informing detainees that their usage will be monitored and recorded;
 - b. information provided to detainees on induction that mail, telephone and email communications are monitored;
 - c. a recorded message transmitted at the commencement of each telephone call informing the parties that the communication will be monitored and recorded; and
 - d. all email recipients are informed that their communications with a detainee will be monitored and recorded.

Monitoring mail

- 8.4 The Senior Director Operations is responsible for the monitoring of all mail to or from a detainee.

- 8.5 The Senior Director Operations will ensure that all mail is searched:
- a. using a scanning search (x-ray, ion scanner, etc.); and/or
 - b. by a corrections dog; and/or
 - c. by staff,
- in accordance with section 104(4) of the Corrections Management Act 2007 (ACT).

Monitoring mail

- 8.6 Staff must not read mail to or from a detainee unless:
- a. there are reasonable grounds to suspect that the mail may:
 - i. undermine security or good order at a correctional centre;
 - ii. revictimise a victim; or
 - iii. circumvent any process for investigating complaints or decisions under the Corrections Management Act 2007 (ACT); or
 - b. in accordance with section 8.10.
- 8.7 Under section 8.6(a), staff will read all:
- a. incoming mail that does not include the address of the sender; and
 - b. incoming and outgoing mail to/from a PO Box where the sender or recipient is not a recognised organisation or service provider, and refer a decision to sections 8.13-8.17.
- 8.8 Staff must record each time a detainee's mail is read on the detainee's electronic record system and in the Mail Register and include justification for the decision in accordance with section 8.6-8.7 and 8.8.
- 8.9 The Senior Director Operations will request a random selection of detainee's mail is read each month in accordance with section 104(3) of the Corrections Management Act 2007 (ACT), and ensure that all mail received is recorded on the detainee's electronic record system and the Mail Register and includes the reasons for the letter being read.
- 8.10 The Senior Director Operations will refer any concerns regarding mail read under section 8.9 to the Intelligence and Integrity Unit for further action.
- 8.11 Where a detainee's mail is searched and/or read under section 8.7, and no concerns exist, the Senior Director Operations must ensure that the mail is sealed and posted as soon as practicable in accordance with section 106 of the Corrections Management Act 2007 (ACT).

Seizing mail

8.12 The Senior Director Operations will seize mail, except for protected communications under section 6, where there are reasonable grounds to suspect that the seizure is necessary to stop:

- a. a prohibited item under the *Prohibited Things Declaration*;
- b. anything that could pose a risk to security and good order at a correctional centre;
- c. anything that could be used for the commission of an offence or disciplinary breach;
- d. threatening or inappropriate correspondence;
- e. a detainee obtaining or purchasing goods without the approval of the GM, from entering or leaving a correctional centre.

8.13 All:

- a. incoming mail from an anonymous source; and
- b. outgoing mail that does not contain the detainee's name and PID,

will be seized under section 8.12.

8.14 In accordance with section 127(1) of the *Corrections Management Act 2007 (ACT)*, the Senior Director Operations must only seize an item contained within a protected communication under section 6 where there are reasonable grounds to suspect that the item:

- a. could physically harm the detainee or any other person; or
- b. is a prohibited item under the *Prohibited Things Declaration*.

8.15 Where any mail is seized, the Senior Director Operations will ensure that a written *Seized Article Receipt* is provided to the detainee as soon as practicable, and includes:

- a. a description of the seized mail/item; and
- b. the grounds for the seizure.

8.16 A copy of the *Seized Article Receipt* must be stored on the detainee's electronic record system.

Monitoring emails

8.17 All email correspondence sent to and from detainees will be scanned using both automated and manual email screening and SPAM filtering processes.

8.18 All emails, except for protected communications, are subject to quarantine and transmission may be blocked in accordance with section 9.2.

- 8.19 The following attachments will be blocked in the quarantine process and not received by a detainee:
- audio files
 - video files
 - moving image files (GIF, TIFF, etc).
- 8.20 Arrangements may be made in exceptional circumstances at the discretion of the GM for a detainee to receive specific media files under section 8.19.
- 8.21 All emails containing attachments will be automatically quarantined and will be subject to inspection to protect against misuse (see section 9).
- 8.22 Emails will be only monitored by authorised staff members for the purposes of inspecting quarantined content.
- 8.23 Authorised staff members may monitor detainee emails where necessary to ensure the safety, security and good order of a correctional centre.
- 8.24 All email correspondence may be made available for, viewing by external investigating agencies for the purpose of investigating suspected criminal and/or unlawful activity.

Monitoring telephone calls

- 8.25 Authorised staff members may monitor detainee telephone calls where necessary to ensure the safety, security and good order of a correctional centre.
- 8.26 All telephone calls may be made available for, viewing by external investigating agencies for the purpose of investigating suspected criminal and/or unlawful activity.

9 DETAINEE MISUSE

- 9.1 The GM will ensure that detainees have access to information on appropriate use of communication types in the *Detainee Handbook*, through the detainee information channel and in accommodation areas.
- 9.2 Detainees must not send communications that contain:
- a. violent language, threats or intimidation towards any other person;
 - b. indecent, explicit or pornographic content;
 - c. content that would be considered offensive to the public;
 - d. an attempt to communicate with an excluded person under section 7.3 via a third party; or
 - e. reference to unlawful activity.

- 9.3 The following actions constitute misuse of a communication type:
- a. damage or tampering with a telephone or computer;
 - b. use of another detainee's PIN, user name or password;
 - c. allowing another detainee to use their PIN, user name or password; or
 - d. for telephones, where a detainee knowingly allows their call to be redirected to another telephone number.
- 9.4 When using the internet, detainees must not:
- a. download, install, or attempt to install, any software onto the computer;
 - b. execute, or attempt to execute, any code;
 - c. attempt to modify the computer; or
 - d. access, or attempt to access, any non-approved website or media.
- 9.5 Detainees who misuse communications under this section will be disciplined in accordance with the *Discipline Policy* and can be managed under section 7.1 where necessary.

10 VERIFICATION PROCESS FOR TELEPHONE AND EMAIL COMMUNICATIONS

- 10.1 Detainees can nominate their personal and professional contacts by completing or modifying their *D13.F3: Telephone and Email Contact List* or *D13.F4: Update Telephone and Email Contact List*.
- 10.2 Communication with a nominated person must only become available to a detainee when the person has expressly consented to the contact.
- 10.3 The GM is responsible for ensuring that telephone contacts are verified by calls made to the person by a delegate to confirm that the person consents to receiving calls from the detainee.
- 10.4 Telephone contacts must be informed that once a telephone number is approved, ACTCS has limited control over use of this number, and that any person can request to have their telephone number removed from the detainee's contact list by contacting the correctional centre.
- 10.5 AMC Executive Support is responsible for ensuring that email contacts are verified by emails to the person to confirm that the person consents to receiving emails from the detainee.

- 10.6 Email contacts must be informed that any email communication to or from a detainee will be monitored and recorded in accordance with section 103 of the Corrections Management Act 2007 (ACT).
- 10.7 Where it is identified that a nominated contact is a child:
- a. under 16 years of age, written and signed consent must be provided by the child's parent or guardian; or
 - b. between 16 and 18 years of age and no longer in the care of a parent or guardian, the GM can approve the contact without a parent or guardian's consent; or
 - c. where there are any care orders by Child and Youth Protection Services (CYPS), according to a written arrangement between the correctional centre and CYPS on contact between the detainee and the child. A copy of the arrangement must be placed on the detainee's electronic record system (refer to section 11.10).

11 TELEPHONE

- 11.1 The Director of Facilities will maintain a pay telephone system (PTS) in each correctional centre that is limited to outgoing calls to a detainee's approved telephone contacts.
- 11.2 In accordance with section 47 of the Corrections Management Act 2007 (ACT), the GM will ensure that detainees have:
- a. free access to a common dial list;
 - b. access to a minimum of one (1) telephone call each week to an approved contact on the detainee's telephone contact list at the detainee's expense; and
 - c. access to emergency or welfare calls to an approved contact on the detainee's telephone contact list subject to the approval of the accommodation Area Manager on a case-by-case basis.
- 11.3 During the induction process, each detainee will be issued with a personalised PIN number to access their approved contacts (Induction Policy).
- 11.4 Detainees are responsible for maintaining the confidentiality of their PIN number.
- 11.5 The Senior Director of Accommodation will ensure that detainees can access telephones during time out of cell hours according to the regime in their accommodation area, as far as practicable (Regime Planning Policy).

- 11.6 The following time restrictions apply to all detainee telephone calls:
- a. for protected communications under section 6,
 - i. no time limit; and
 - b. for all other communications,
 - i. a maximum duration of 10 minutes.
- 11.7 The GM must maintain a common dial list including, but not limited to:
- a. Official visitors;
 - b. ACT Ombudsman;
 - c. Human Rights Commission;
 - d. ACT Auditor General;
 - e. Public Advocate;
 - f. Integrity Commissioner; and
 - g. Victim Support ACT.
- 11.8 Detainees can amend their telephone contact list once per month, unless in extenuating circumstances, by submitting a *D13.F4: Update Telephone and Email Contact List* to amend their telephone contact list.
- 11.9 For arrangements under section 10.7(c), staff must ensure that the detainee is not provided with the telephone number used to contact the child/ren.
- 11.10 Detainees are required to pay for telephone calls at the current service provider rate by purchasing phone credits in accordance with the *Detainee Trust Fund Management Policy (Phone Credits Purchase Form)*. Changes to the charge rate are determined by the service provider and the GM will ensure that detainees are informed in advance of any increased cost.
- 11.11 Except in emergency circumstances under section 11.2, detainees are responsible for ensuring they have adequate phone credits to use the PTS.

Incoming calls for detainees

- 11.12 Staff will answer incoming telephone calls to a correctional centre and assess the purpose of the call.
- 11.13 Where the telephone call relates to an emergency or welfare issue, staff will notify the relevant Correctional Officer Grade 2 (CO2) who is responsible for informing the detainee.
- 11.14 The CO2 must case note the information provided to a detainee on the detainee's electronic record system and inform the detainee's Sentence Management Officer, the Chaplain or Intelligence and Integrity Unit where relevant.

11.15 All other messages will not be accepted or communicated to a detainee.

12 MAIL

12.1 The GM will ensure that detainees:

- a. can access two (2) sheets of A4 paper and two (2) envelopes each week at ACTCS expense;
- b. can purchase paper and envelopes under the *Detainee Trust Fund Management Policy*;
- c. can send and receive unlimited mail at detainee expense in accordance with section 48 of the *Corrections Management Act 2007 (ACT)* and this policy; and
- d. can send two (2) letters at ACTCS expense each week by attaching the mail to a *Detainee Request Form*.

12.2 Except for section 12.1(c), detainees are required to purchase postage stamps through the buy-up system in order to send mail (*Detainee Trust Fund Management Policy*).

12.3 Detainees must place their unsealed mail in the secure postal box in their accommodation area. In accordance with section 8.6, all mail will be searched prior to being sealed and sent.

12.4 Each mail envelope sent by a detainee from a correctional centre will include the detainee's name, PID, accommodation area and the address of the correctional centre.

12.5 Staff will ensure that mail is processed, sent and delivered to a detainee as soon as practicable.

12.6 Where mail is received via process server it must be provided to the GM or above for documentation and provision to the relevant detainee.

13 EMAIL

13.1 All detainees will receive an email address during the induction process and may be approved to contact up to five (5) email contacts at any one time (*D13.F3: Telephone and Email Contact List*).

13.2 All emails will be identified as having been sent from the correctional centre.

- 13.3 Detainees can amend their approved email contact list once per month, unless in extenuating circumstances, by submitting a *D13.F4: Update Telephone and Email Contact List*.
- 13.4 In addition to section 13.1, the GM will provide all detainees with email access to an approved list of addresses in the *Detainee Handbook*. Access to this list will also be available on all correctional centre computers used by detainees.
- 13.5 For reasons of good order and security, detainees will not be permitted to email one another, except at the discretion of the GM.
- 13.6 Detainees should not use the email to contact any media representatives (*Media Access Policy*).

14 AUDIO VISUAL LINK (AVL)

- 14.1 An AVL system will be maintained to allow detainees to participate in court proceedings from a correctional centre, and for legal and professional communications with detainees as appropriate and subject to availability.
- 14.2 The GM will establish locations for AVL use and ensure that each location includes:
- a. a bible;
 - b. oath and affirmation cards; and
 - c. a telephone to allow a detainee to communicate with their legal representative, and/or an interpreter.
- 14.3 The GM will appoint an AVL Coordination Officer who is responsible for:
- a. allocating all AVL bookings;
 - b. ensuring that court matters have precedence over legal and professional bookings;
 - c. ensuring that all facilitating AVL bookings are provided with the schedule and names of each detainee; and
 - d. confirming AVL bookings with the court, legal or professional services as appropriate.
- 14.4 Detainees are not able to request AVL appointments.
- 14.5 Requests for an AVL appointment by legal or professional services will not be approved less than one (1) business day in advance.

14.6 Legal or professional services' AVL appointments that are 15 minutes late to commence will be cancelled and must be re-booked with the AVL Coordination Officer.

14.7 Detainees are allowed to bring paperwork to an AVL appointment.

Court proceedings via AVL

14.8 The DCCO will ensure that:

- a. ACTCS facilitates the attendance of detainees at court proceedings via AVL in accordance with the relevant legal detainer or warrant (section 55A of the Supreme Court Act 1933 (ACT)); and
- b. detainees receive equivalent access to services as detainees present in-person before a Court, including but not limited to legal representation and interpreter services.

14.9 The Supervising Officer will ensure that detainees are informed of the following prior to a court proceeding:

- a. that an AVL location is considered to be a court room and the detainee must conduct themselves appropriately at all times; and
- b. that the detainee can be heard by the court once they have entered the AVL location.

14.10 Staff must maintain appropriate conduct for a court room at all times during court proceedings via AVL.

15 RELATED DOCUMENTS

- A – D13.F1: Reception Telephone Form
- B – D13.F2: Inter Centre Communication Form
- C – D13.F3: Telephone and Email Contact List
- D – D13.F4: Update Telephone or Email Contact List
- E – Detainee Communications Operating Procedure
- F – Phone Credits Purchase Form
- G – Detainee Request Form
- H – Incentives and Earned Privileges Policy
- I – Detainee Requests and Complaints Policy
- J – Detainee Trust Fund Management Policy
- K – Management of Segregation and Separate Confinement Policy
- L – Discipline Policy

- M – Prohibited Things Declaration
- N – Detainee Handbook
- O – Induction Policy
- P – Regime Planning Policy
- Q – Seized Article Receipt



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 Commissioner
 ACT Corrective Services
 17 April 2020

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