

Australian Capital Territory

# Corrections Management (Management of Segregation and Separate Confinement) Policy 2020

Notifiable instrument NI2020-791

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 (Management of Segregation and Separate Confinement) Policy 2020*.

## 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 policy revokes the *Corrections Management (Management of Segregation and Separate Confinement) Policy 2019* [NI2019-381].

Jon Peach  
Commissioner  
ACT Corrective Services  
11 December 2020

# MANAGEMENT OF SEGREGATION AND SEPARATE CONFINEMENT

POLICY NO. D3

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 are managed and supported through the least restrictive practices required to ensure that safety and good order of a correctional centre is maintained. ACTCS recognises the significant impact that segregation and separate confinement regimes can have on the mental and physical health of a detainee and is committed to ensuring that such impacts are minimised as far as practicable.

This policy establishes clear requirements for correctional centres to manage the segregation and separate confinement of detainees in a safe, secure, decent and humane manner.

## 2 SCOPE

This policy applies to all correctional centres in the ACT.

Where required, the Deputy Commissioner Custodial Operations will establish operational procedures under this policy.

## 3 DEFINITIONS

### **Section 21 Doctor**

The Doctor appointed under section 21 of the *Corrections Management Act 2007 (ACT)*.

### **Adjudicator**

A person appointed by the Minister under section 177 of the *Corrections Management Act 2007 (ACT)* to review certain decisions made in an ACT correctional centre.

### **Business Day**

A day that is not:

- a. Saturday or Sunday; or
- b. a public holiday in the ACT.

### **Investigative segregation**

Investigative segregation must only occur following an incident or event where there are reasonable grounds that the opportunity for the detainee to associate with anyone else creates, or is likely to create, a risk of:

- a. harm, or threatened harm, to the detainee or anyone else;

- b. the perverting, or attempted perverting, of an investigation according to chapter 10 of the *Corrections Management Act 2007 (ACT)*; or
- c. undermining security or good order at a correctional centre.

### **Management Unit**

A specific and designated unit within a correctional centre purposed to house detainees on segregation or separate confinement.

### **Segregation**

The restriction or denial of the detainee's opportunity to go to, or be in, a particular part of a correctional centre, or to associate with other detainees. Segregation only occurs when it is necessary on reasonable grounds to protect:

- a. the safety of the detainee;
- b. the safety of anyone else at a correctional centre;
- c. security or good order at a correctional centre;
- d. to assess the physical or mental health of a detainee;
- e. to protect anyone from harm because of the detainee's physical or mental health; or
- f. against the spread of disease.

Segregation is not a punishment and cannot be used for disciplinary reasons.

### **Separate confinement**

Confinement of a detainee in a cell, away from other detainees, as an administrative penalty for a disciplinary breach according to the *Discipline Policy* and chapter 10 of the *Corrections Management Act 2007 (ACT)*.

## **4 PRINCIPLES**

- 4.1 Segregation must only be used when it is justifiable and not as a punishment (*Human Rights Principles for ACT Correctional Centres*).
- 4.2 Detainees must not automatically be denied access to activities consistent with the fulfilment of their sentence management plan simply because they are being managed according to this policy.
- 4.3 Detainees must continue to receive the minimum entitlements legislated in Chapter 6 of the *Corrections Management Act 2007 (ACT)*.
- 4.4 The impact of segregation on the mental health of a detainee must be taken into consideration when reviewing a segregation or separate confinement direction, and managed according to the *Management of At-Risk Detainees Policy* where appropriate.

- 4.5 Detainees must not remain under segregation or separate confinement beyond the expiry date of the direction, and must be removed as soon as practicable on the expiry day of the direction.
- 4.6 Any direction to place a detainee in segregation or separate confinement must include cultural considerations, particularly for Aboriginal and Torres Strait Islander detainees who have distinct cultural rights under section 27(2) of the *Human Rights Act 2004 (ACT)*:
- a. to maintain, control, protect and develop their:
    - i. cultural heritage, practice and observance;
    - ii. languages and knowledge; and
    - iii. kinship ties.
- 4.7 The General Manager of the correctional centre (GM) will establish methods to record:
- b. the time out of cell hours for each detainee;
  - c. the staff on duty; and
  - d. visits to detainees under this policy.
- 4.8 All documents under this policy must be stored in a detainee's electronic record system.

## **5 MANAGEMENT OF SEGREGATION AND SEPARATE CONFINEMENT**

- 5.1 The GM will establish locations for segregation and separate confinement, including a Management Unit.
- 5.2 Where other locations are required to be used for the purpose of this policy due to capacity or cohort management complexities, for example female detainees, the GM will identify suitable areas for approval and designation by the Commissioner (*D3.F4: Segregation/Separate Confinement Location - Authority*).
- 5.3 The GM will review authorised locations under section 5.2 at least once every 12 months.
- 5.4 The GM will establish governance arrangements to meet the requirements of this policy, including a register of:
- a. the full name;
  - b. PID;
  - c. time and location of first segregation;
  - d. time and date of health assessment;

- e. time and date of segregation review/s; and
- f. time and date of exit from segregation,

for all detainees managed under this policy.

- 5.5 A copy of this register must be provided to the Team Leader, Quality Assurance via email to [ACTCSOperationalCompliance@act.gov.au](mailto:ACTCSOperationalCompliance@act.gov.au) and CC'ed to the Commissioner, ACTCS each Friday before close of business.
- 5.6 A detainee's Sentence Management Officer, Welfare Officer, and Indigenous Liaison Officer where relevant, must be informed via email within one (1) business day of a detainee being placed in segregation or separate confinement.

### **Staffing**

- 5.7 The appointment of staff to a Management Unit must be based on a custodial officer's:
- a. competence in dealing with difficult situations;
  - b. ability to develop constructive and positive relationships with detainees; and
  - c. ability to encourage positive changes in detainee behaviour.
- 5.8 The GM must endorse all staff appointments.
- 5.9 The GM must conduct an annual review of all staff appointments to a Management Unit.
- 5.10 No staff member will be rostered consistently within a Management Unit for greater than a two (2) year period.
- 5.11 All staff appointed to a Management Unit under section 5.7 must be current in the following training:
- a. Use of Force;
  - b. First Aid;
  - c. Breathing Apparatus;
  - d. Mental Health Awareness; and
  - e. Suicide and Self-Harm.
- 5.12 The Deputy Commissioner Custodial Operations is responsible for ensuring the development of induction procedures for staff appointed to a Management Unit, and that all staff receive induction training specific to a Management Unit before commencement.

## 6 PLACEMENT ON SEGREGATION

- 6.1 The GM may delegate authority to segregate a detainee to the Senior Director Operations and Duty Manager.
- 6.2 When the Senior Director Operations and/or Duty Manager of a correctional centre is considering segregating a detainee under the Corrections Management Act 2007 (ACT), they must justify which section the detainee is to be segregated under based on relevant information and the balance of probabilities (D3.F1: Initial Segregation Form).
- 6.3 The segregation process must clearly state how the direction mitigates the risk/s the detainee is presenting at that time (D3.F1: Initial Segregation Form).
- 6.4 A detainee will be assessed by a Justice Health Doctor or Registered Nurse as soon as practicable, and ideally within two (2) hours of a direction to health segregate a detainee, according to section 12.5 (D3.F3: Initial Health Screening).
- 6.5 The Senior Director Operations and/or Duty Manager can segregate a detainee if they believe, on reasonable grounds:

Section	
<b>90 (safety and security)</b>	The direction is necessary and prudent to protect (a) the safety of anyone else at a correctional centre, or (b) security and good order at a correctional centre.
<b>91 (protective custody)</b>	The direction is necessary or prudent to protect the safety of the detainee.
<b>92 (health)</b>	The direction is necessary or prudent (a) to assess the detainee's physical or mental health, (b) protect anyone (including the detainee) from harm because of the detainees physical or mental health, or (c) to prevent the spread of disease.
<b>156, 158, 160 (investigative segregation)</b>	The direction is necessary or prudent after an incident or event because the opportunity for the detainee to associate with anyone else creates, or is likely to create, a risk of (a) harm or threatened harm to any person, or (b) the perverting, or attempted perverting, of an investigation, or (c) undermining security or good order at a correctional centre.

### Length of segregation



6.6 Periods of segregation must not exceed the maximum timespan for a direction under this policy:

Section	Type	Maximum timespan
<b>90 (safety and security)</b>	Initial	Within three (3) business days after the direction is approved.
	Continuation	Subject to the following reviews according to section 9: <ul style="list-style-type: none"> <li>a. By the GM every seven (7) days;</li> <li>b. By the Commissioner every 21 days,</li> </ul> for a maximum of 90 days unless a new direction is approved.
<b>91 (protective custody)</b>	Initial	Within three (3) business days after the direction is approved.
	Continuation	Subject to the following reviews according to section 9: <ul style="list-style-type: none"> <li>a. By the GM every seven (7) days;</li> <li>b. By the Commissioner every 21 days,</li> </ul> for a maximum of 90 days unless a new direction is approved.
<b>92 (health)</b>	Initial	Within three (3) business days after the direction is approved.
	Continuation	Maximum of 21 days after the initial segregation direction; or according to any further direction following a review under section 9; or a clinical opinion from the Section 21 Doctor to revoke the direction.
<b>156, 158, 160 (investigative segregation)</b>	Initial	Three (3) business days after the direction is approved.

6.7 Continuation of a detainee's segregation only occurs after a review according to section 9.

## 7 NOTIFICATION OF SEGREGATION

- 7.1 Within two (2) hours of a segregation direction under section 6, a detainee must:
- a. be given a copy of the segregation direction (*D3.F1: Initial Segregation Form*), including:
    - i. the reasons for direction;
    - ii. that the direction will be reviewed within three (3) business days;
    - iii. information that they may request an adjudicator review a direction within seven (7) days:
      - i. under section 96 of the *Corrections Management Act 2007 (ACT)* for a segregation direction; or
      - ii. under section 164 of the *Corrections Management Act 2007 (ACT)* for investigative segregation; and
    - iv. information that they have the right to complain about the direction to an Official Visitor, Human Rights Commission, and/or Ombudsman.
  - b. be given in writing the rules and regime of the location under section 5, and the way in which the minimum entitlements will be provided, including:
    - i. lock-in hours;
    - ii. health visits;
    - iii. meal and exercise times;
    - iv. access to services;
    - v. appeals processes;
    - vi. how to access their Sentence Management Officer; and
    - vii. scheduled visits under section 12.4.
- 7.2 A detainee must be asked to acknowledge, by signing, receipt of the documents related to the direction and that they have been informed and understand the reasons for the segregation or separate confinement (*D3.F1: Initial Segregation Form*).
- 7.3 If a detainee refuses to acknowledge, or is unable to, this must be noted on the direction.
- 7.4 Staff must ensure that any detainee with communication difficulties or English as a second language understands the information in the direction.

7.5 Where a detainee is under the care of the Public Trustee and Guardian, the Senior Director Operations, or Duty Manager in their absence, is responsible for ensuring the Public Trustee and Guardian is notified each time the detainee is placed in segregation or separate confinement.

## 8 SEGREGATION REGIMES

- 8.1 Detainees under this policy must not be subject to any restrictions that are no more necessary than to protect the detainee concerned or to maintain safety, security and good order of a correctional centre.
- 8.2 The regime for detainees under this policy will be as full as possible according to the *Regime Planning Policy*.
- 8.3 Appropriate adjustments should be made to allow ongoing access to education or work as far as practicable.

Example: Educational work provided to a detainee and completed in-cell.

- 8.4 The regime for a detainee under this policy, as far as practicable and if not inconsistent with the segregation direction, should be consistent with the detainee's access to privileges (*D3.F1: Initial Segregation Form; D3.F7: Exit Plan*).
- 8.5 Staff must record in the detainee electronic record system each time a detainee declines a minimum entitlement in chapter 6 of the *Corrections Management Act 2007 (ACT)* (*D3.F8: Management Unit Daily Log*).

## 9 REVIEW OF SEGREGATION

9.1 A review of segregation must occur (*D3.F6: Segregation Review Form*):

Section	Responsible person	Reviews
<b>90 (safety and security)</b>	Senior Director Operations, or Duty Manager in their absence	<b>Must review within three (3) business days</b> , and decide if there is justification for the direction to continue. The review must consider clear targets for the detainee to reintegrate, and responding to the identified risk/s.
		<b>Must chair a multi-disciplinary meeting each week</b> , to consider the behaviour and attitude of the detainee, mental health and the effect of segregation on the detainee, clear targets for the

		<p>detainee to reintegrate, and privileges that will be added or rewarded.</p> <p><b>Must revoke</b> if there ceases to be justification for continuing with the direction.</p>
	GM	<p>Must review the direction every seven (7) days and support or revoke the decision.</p> <p>Must review the direction within seven (7) days of receipt of a detainee request, and provide a written response to the detainee.</p>
	Commissioner, ACTCS	Must review the direction every 21 days and support or revoke the decision.
	Adjudicator	Must review the direction when requested by a detainee.
<b>91 (protective custody)</b>	Senior Director Operations, or Duty Manager in their absence	<p><b>Must chair a review within three (3) business days</b>, and decide if there is justification for the direction to continue. The review must consider clear targets for the detainee to reintegrate, and responding to the identified risk/s.</p>
		<p><b>Must chair a multi-disciplinary meeting each week</b>, to consider the behaviour and attitude of the detainee, mental and physical health and the effect of segregation on the detainee, clear targets for the detainee to reintegrate, and privileges that will be added or rewarded.</p>
		<p><b>Must revoke</b> if there ceases to be justification for continuing with the direction.</p>
	GM	Must review the direction every seven (7) days and support or revoke the decision.
		Must review the direction within seven (7) days of receipt of a detainee request, and provide a written response to the detainee.
	Commissioner, ACTCS	Must review the direction every 21 days and support or revoke the decision.

	Adjudicator	Must review the direction when requested by a detainee.
<b>92 (health)</b>	Senior Director Operations, or Duty Manager in their absence	<b>Must chair a review within three (3) business days</b> , and decide if there is justification for the direction to continue. The review must consider clear targets for the detainee to reintegrate, and responding to the identified risk/s.
		<b>Must chair a multi-disciplinary meeting each week</b> , to consider the detainee's health condition, mental and physical health and the effect of segregation on the detainee.
		<b>Must revoke</b> when advised by the Section 21 Doctor that there is no justification for continuing with the direction.
	GM	Must review the direction every seven (7) days and support or revoke the decision.
		Must review the direction within seven (7) days of receipt of a detainee request, and provide a written response to the detainee.
Commissioner, ACTCS	Must review the direction every 21 days and support or revoke the decision.	
Adjudicator	Must review the direction when requested by a detainee.	
<b>160 and 161 (investigative segregation)</b>	Senior Director Operations, or Duty Manager in their absence	<b>Must chair a review within three (3) business days</b> , and decide if there is justification for a new direction under section 90 or 91 of the <u>Corrections Management Act 2007 (ACT)</u> .
		<b>Must revoke</b> if there ceases to be justification for continuing with the direction.
	GM	Must review the direction every seven (7) days and support or revoke the decision.
		Must review the direction within seven (7) days of receipt of a detainee request, and provide a written response to the detainee.

	Commissioner, ACTCS	Must review the direction every 21 days and support or revoke the decision.
	Adjudicator	Must review the direction when requested by a detainee.

- 9.2 All documents relevant to the direction are provided to the reviewer, including information on the effectiveness of the direction and exit plan.
- 9.3 An exit plan must be created according to section 10 and provided to the detainee (*D3.F7: Segregation Exit Plan*).
- 9.4 Justice Health must be invited to attend, or provide relevant information for, each multi-disciplinary meeting.
- 9.5 The Indigenous Services Coordinator must attend each multi-disciplinary meeting to provide advice on cultural considerations and options to encourage prosocial links for Aboriginal and Torres Strait Islander detainees.
- 9.6 If the direction is changed, the new direction starts from the date the detainee was placed on the new direction.

Example: the detainee is moved from investigative segregation to segregation for safety, security and good order of a correctional centre.

- 9.7 If a detainee's behaviour and/or activities continue to present a risk under section 6.6, a review of the detainee's security classification may also be required under section 80 of the *Corrections Management Act 2007 (ACT)*.

## 10 EXIT PLANS

- 10.1 Detainees under this policy will have an exit plan developed by the Senior Director Operations, or Duty Manager in their absence, at the first review of segregation according to section 9.1.
- 10.2 Exit plans must set reasonable, specific and time-bound targets for a detainee to meet (*D3.F7: Segregation Exit Plan*).

Examples may include: participating in anger management counselling within seven (7) days, or not raising their voice to any person for seven (7) days.

- 10.3 The Senior Director Operations, or Duty Manager in their absence, will exercise discretion on developing an exit plan for detainees segregated under section 92 of the *Corrections Management Act 2007 (ACT)*.

- 10.4 A detainee's engagement with their exit plan will be taken into consideration at each segregation review under section 9.1.

## 11 SEPARATE CONFINEMENT

- 11.1 An administrative penalty of separate confinement for a disciplinary breach can be awarded according to the Discipline Policy and chapter 10 of the Corrections Management Act 2007 (ACT).
- 11.2 Detainees are notified of their placement in a separate confinement regime at a disciplinary hearing according to the Discipline Policy.
- 11.3 A detainee must be assessed by a Justice Health Doctor or Registered Nurse as soon as practicable, and ideally within two (2) hours of a detainee placed in separate confinement, (D3.F3: Initial Health Screening).
- 11.4 If Justice Health Services indicates there are serious health concerns that will impact the detainee while in separate confinement, the Senior Director Operations, Duty Manager, or Office-in-Charge in their absence, must hold an immediate Healthcare Review Meeting to consider the administrative penalty (D3.F5: Healthcare Review Meeting).
- 11.5 A detainee's entitlements while on separate confinement will be determined on an individual basis as part of the disciplinary hearing (D3.F2: Separate confinement authority), and may limit the detainee's access to:
- out of cell hours
  - television and computer
  - phone calls
  - buy-ups
  - visits
  - in cell property
  - education and programs
  - library
  - exercise.
- 11.6 A review of separate confinement must occur in accordance with the Discipline Policy.

## 12 VISITS AND GOVERNANCE OF DETAINEES ON SEGREGATION OR SEPARATE CONFINEMENT

### Recording of attendance and interactions at the Management Unit

- 12.1 A daily log of all staff on duty in a Management Unit must be maintained (D3.F8: Management Unit Daily Log).
- 12.2 All visitors (including other staff) must be recorded and include the purpose of visit, and any detainee visited (D3.F8: Management Unit Daily Log).
- 12.3 Management Unit staff must record all interactions and feedback provided to a detainee on the detainee's electronic record system.

### Staff visits

- 12.4 A detainee under this policy must be visited by:

<b>Duty Manager when on duty, or the Officer-in-Charge (CO4)</b>	<b>At least once a day</b> The purpose for the visit is for the detainee to have the opportunity to raise any issues or concerns they have regarding their segregation, treatment, etc.
<b>GM</b>	<b>At least once each week</b> , to ensure appropriate oversight of detainees under this policy.
<b>Sentence Management Officer Welfare Officer Indigenous Liaison Officer</b>	<b>Within two (2) business days of notification</b> A detainee's Sentence Management Officer, Welfare Officer, and Indigenous Liaison Officer where relevant, must be notified when a detainee is placed on segregation or separate confinement according to section 5.5.
<b>Chaplain</b>	<b>At least once each week</b>
<b>Commissioner, ACTCS</b>	<b>At least once each month</b>
<b>Healthcare</b>	
<b>Justice Health Doctor or Registered Nurse</b>	<b>As soon as practicable</b> , or according to section 12.5, to complete an initial health screening ( <u>D3.F3: Initial Health Screening</u> ).
<b>Justice Health Professional</b>	<b>At least once a day</b> , to assess the physical and mental health of the detainee.



	<b>Management Unit staff must also</b> record any recommendations or feedback on the detainee’s electronic record system.
Aboriginal and Torres Strait Islander detainees	
<b>Community elders</b>	The Indigenous Services Coordinator is responsible for arranging the attendance of a community elder subject to their earliest availability to attend.

12.5 If a detainee cannot be visited by a Justice Health Doctor or Registered Nurse within two (2) hours of placement under section 12.4, the detainee must be placed on a thirty (30) minute observation routine, or in accordance with any current observation routine of less than thirty (30) minutes.

### 13 RELATED DOCUMENTS

- A – Annex 1 – AMC Segregation and Separate Confinement Areas
- B – Annex 2 – Information sheet: The effects of segregation and separate confinement
- C – D3.F1: Initial Segregation Form
- D – D3.F2: Separate Confinement Authority Form
- E – D3.F3: Initial Health Screening Form – Segregation/Separate Confinement
- F – D3.F4: Segregation/Separate Confinement Location - Authority
- G – D3.F5: Healthcare Review Meeting – Segregation/Separate Confinement
- H – D3.F6: Segregation Review Form
- I – D3.F7: Segregation Exit Plan
- J – D3.F8: Management Unit Daily Log
- K – Segregation Operating Procedure
- L – Separate Confinement Operating Procedure
- M – Discipline Policy
- N – Management of At-Risk Detainees Policy
- O – Regime Planning Policy

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### Document details

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