

Australian Capital Territory

Corrections Management (Relocating a Detainee to a NSW Correctional Centre) Operating Procedure 2022

Notifiable instrument NI2022-141

made under the

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

1 Name of instrument

This instrument is the *Corrections Management (Relocating a Detainee to a NSW Correctional Centre) Operating Procedure 2022*.

2 Commencement

This instrument commences on the day after its notification day.

3 Operating Procedure

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

Ray Johnson APM
Commissioner
ACT Corrective Services
23 March 2022



OPERATING PROCEDURE	Relocating a Detainee to a NSW Correctional Centre
OPERATING PROCEDURE NO.	D40.1
SCOPE	ACT Correctional Centres

PURPOSE

To provide instructions to ACTCS staff in identifying and assessing a need to relocate an Australian Capital Territory (ACT) detainee or detainees to a New South Wales (NSW) correctional centre, and the process for implementing a relocation.

PROCEDURES

1. Identifying a potential need to relocate

- 1.1 A potential need to relocate a detainee may be identified from a range of different sources of information, such as intelligence reports, operational reports to Senior Directors, advice from Justice Health Services, etc. Where a correctional officer believes there may be a need to relocate a detainee, they must notify the Area Supervisor. The Area Supervisor must consider the information and may notify the Area Manager or the relevant Senior Director, if appropriate.
- 1.2 Where a detainee seeks to be relocated to NSW for welfare reasons and the Team Leader Sentence Management Unit believes the reasons may meet the requirements of this policy, the Team Leader will contact the Senior Director Detainee Services to request a relocation assessment on welfare grounds.
- 1.3 The most relevant Senior Director is responsible for ensuring the proposed relocation is assessed:
 - a) for an administrative requirement – the Senior Director Accommodation
Example: overcrowding and lack of suitable and secure space
 - b) for health and welfare reasons – the Senior Director Detainee Services
Example: a detainee develops an illness that requires daily personal medical care that cannot be reasonably provided within an ACT correctional centre
Example: a detainee's family moves to NSW and the lack of access to family visits is detrimental to the detainee's wellbeing.
 - c) for security reasons – the Senior Director Operations
Example: where there is a reasonable belief that a detainee presents an unreasonable risk to other detainees or staff, or is at risk from other detainees and the risk cannot be reasonably managed within an ACT correctional centre.

2. Assessment

- 2.1. When a potential need for relocation is identified, the relevant Senior Director must direct the Sentence Management Unit Sentencemanagement.Unit@act.gov.au to prepare a D40.F1: Relocation Assessment Report. The Senior Director will provide the reason for the transfer and any other supporting information for the Sentence Management Unit to prepare the D40.F1: Relocation Assessment Report. Information to be provided will include but not be limited to:
- If urgent the reason for urgency and relevant dates
 - Reason for relocation to NSW
 - Is there supporting documentation
 - Is the relocation temporary and permanent, why?
- 2.2. The Sentence Management Officer will request information from relevant business units and where appropriate, external agencies.
- 2.3. In accordance with the form, considerations will always include:
- a) sentencing status (remand vs sentenced)
 - b) length of remaining sentence/earliest release date
 - c) any scheduled court appearances
 - d) Aboriginal or Torres Strait Islander status
 - e) health status and any current health interventions
 - f) known family connections (location)
 - g) current programs, education, work and services detainee is undertaking
 - h) behavioural information – case notes indicating disciplines, warnings, etc.
 - i) availability in NSW of services, programs or facilities which better meet the detainee’s needs
 - j) victim information where relevant.
- 2.4. Where the detainee identifies as an Aboriginal or Torres Strait Islander person the Sentence Management Officer must contact the Aboriginal and Torres Strait Islander Services Unit for input relating to cultural matters and considerations such as supports available in the community, social and emotional wellbeing, and the detainee’s connections to Country, family and children.
- 2.5. The Sentence Management Officer must send the D40.F3: Relocation Victim Information Form to the Victim Liaison Officer (VLO) to identify if there are registered victims in the ACT or NSW who need to be notified or consulted. Relevant information relating to the victim will be taken into consideration as part of the assessment and for the Commissioner’s decision. Relevant information is to be included in the assessment to be shared with NSW.

Assessment – Administrative requirement

- 2.6. When the relocation of detainee(s) is required because of damage to accommodation, the Senior Director Accommodation will ask the Facilities Manager for an assessment of the length of time the accommodation will be unavailable. This will assist in considering whether the relocation should be temporary or permanent.

- 2.7. When relocation of multiple detainees is required, the Senior Director Accommodation must, where practicable, seek advice from the Sentence Management Unit on any detainees from the affected area that are not suitable for relocation.
- a) Where relocation is not urgent, the Senior Director may seek volunteers willing to relocate to NSW or detainees who have previously volunteered may be approached to relocate. Volunteers must also be assessed as per sections 2.1 – 2.5 of this operating procedure.

Assessment – Health intervention

- 2.8. A detainee's health service (Justice Health Services or Winnunga Nimmityjah) may request that the detainee be relocated where the required treatment and care cannot reasonably be provided in an ACT correctional centre or health facility. The health service is responsible for contacting Corrective Services NSW to verify that the required services are available in NSW.
- 2.9. A detainee's Sentence Management Officer may request that the Team Leader Sentence Management Unit request a relocation to NSW on welfare or wellbeing grounds by providing compelling reasons in writing that relocation to NSW would significantly improve the detainee's welfare or wellbeing. The ACTCS assessment must consider whether on balance the expected benefits outweigh potential lesser conditions in a NSW correctional centre.

Assessment – Safety and Security reasons

- 2.10. Where it is proposed to relocate a detainee for safety and security reasons, the Senior Director Operations must ensure alternative accommodation and regime management options within an ACT correctional centre are considered first. Alternatives must consider the safety of persons as well as the safety and security of an ACT correctional centre.
- 2.11. The Senior Director Operations must request the ACTCS Intelligence Unit prepare an intelligence report and direct relevant staff to gather and submit any other information required.
- 2.12. Where the safety and security concern is caused by a detainee's complex behavioural issues, the Sentence Administration Section (SAS) must contact Corrective Services NSW to arrange for the relevant specialist team to undertake an assessment and, where appropriate, arrange placement in a specific correctional centre.

Report to General Manager

- 2.13. The Senior Director must consider the *D40.F1: Relocation Assessment Report* and any other relevant information before making a recommendation to the General Manager.
- 2.14. The Senior Director must provide their assessment using the *D40.F1: Relocation Assessment Report* and any other underpinning information, to the General Manager of the correctional centre. The General Manager must consider the information provided in the assessment and either support or not support the relocation of the detainee(s).

3. Notification, Right to Respond and Decision

- 3.1. Where the proposed relocation is not supported, the General Manager may direct the Senior Director to explore other options and/or provide an updated assessment for consideration.

- 3.2. Where the General Manager agrees relocation to NSW is necessary and appropriate, the detainee(s) will be given formal written notification using the D40.F2: Notice of Intended Relocation. The notice will include reasons for the relocation and provide the detainee a period of five (5) calendar days to respond in writing and/or provide additional information for consideration.
- 3.3. The usual period of notice to a detainee may be waived where the General Manager believes on reasonable grounds that provision of notice would result in a risk of harm to staff or a detainee, or a risk to the security and good order of a correctional centre.
- 3.4. A detainee provided notice in writing at the time of relocation maintains the right to respond in writing within a period of ten (10) calendar days following the relocation. The officer providing the notice must make all reasonable efforts to ensure the detainee understands the assessment and appeal process.
- 3.5. Where a detainee objects in writing to the relocation and/or provides additional information for consideration, the General Manager must consider the response and any additional information.
- 3.6. The General Manager must record their recommendation in the relevant section of the D40.F1: Relocation Assessment Report and provide it to the Commissioner with any supporting information.
- 3.7. On receipt of the D40.F1: Relocation Assessment Report, the Commissioner must consider the General Manager's recommendation and supporting information, and either authorise the relocation by completing a Direction to relocate a detainee to a New South Wales Correctional Centre or decline the relocation recommendation.
- 3.8. If the Commissioner declines the relocation recommendation, they must provide reasons in writing to the General Manager. If the detainee has already been relocated to NSW, the General Manager must ensure the detainee is returned to the ACT as soon as practicable.

4. Urgent relocation

- 4.1. Where a relocation is identified as urgent, the Senior Director must on receipt of a D40.F1: Relocation Assessment Report complete the relevant parts and, within 24 hours of receiving the form, provide it to the General Manager of the correctional centre.
- 4.2. The General Manager must consider the D40.F1: Relocation Assessment Report and make a recommendation to the Commissioner as soon as practicable using the relevant section of the D40.F1: Relocation Assessment Report.
- 4.3. The Commissioner will consider the D40.F1: Relocation Assessment Report and the General Manager's recommendation, and either authorise the relocation by completing a Direction to relocate a detainee to a New South Wales Correctional Centre or decline the urgent relocation request. If the Commissioner declines the urgent relocation request, they must provide reasons in writing to the General Manager.
- 4.4. If authorised, the General Manager must arrange for agreement with Corrective Services NSW for admission of the detainee and appropriate escort arrangements.
- 4.5. The detainee must be given written notice of the relocation at the time of relocation. The notice must include information relating to the requirement for an assessment to be

undertaken and that the detainee will have the opportunity to respond after the assessment has been completed. The officer providing the notice must make all reasonable efforts to ensure the detainee understands the assessment and appeal process.

- 4.6. Following the relocation, the Senior Director must ensure an assessment is completed within five (5) business days, as per Section 2 of this operating procedure.
- 4.7. Once the assessment is completed, the detainee must be provided a D40.F2: Notice of Intended Relocation and given ten (10) calendar days to respond.
- 4.8. The Senior Director must consider the D40.F1: Relocation Assessment Report and the detainee's response (if any) and provide their recommendation to the General Manager.
- 4.9. The General Manager must consider the D40.F1: Relocation Assessment Report and provide their recommendation to the Commissioner. The General Manager may recommend that:
 - a) the detainee remain in NSW on a temporary basis
 - b) the detainee remain in NSW on a permanent basis
 - c) that the detainee be returned to the ACT.
- 4.10. The Commissioner must consider the recommendation and supporting information and accept or reject the recommendation. If the Commissioner rejects the recommendation, they must provide reasons in writing to the General Manager.
- 4.11. The General Manager will ensure that the detainee is informed of the outcome of the assessment as soon as practicable.
- 4.12. Where the Commissioner decides that the detainee is to be returned to an ACT correctional centre, the General Manager will arrange for the detainee to be returned to an ACT correctional centre at the earliest opportunity.

5. Relocating a detainee to a NSW Correctional Centre

- 5.1. On receipt of a Direction to relocate a detainee to a New South Wales Correctional Centre, the General Manager must ensure that the appropriate date, time and location of the detainee's admission to an NSW correctional centre is negotiated with Corrective Services NSW.
- 5.2. Upon agreement of the date, time and location of the detainee's admission to an NSW correctional centre, the General Manager must arrange for transport of the detainee.
- 5.3. A Direction to relocate a detainee to a New South Wales Correctional Centre must state the correctional centre which the detainee is being escorted to. Where a change of circumstances requires it, Corrective Services NSW may direct that the detainee be escorted to another correctional centre. The Direction must be updated with the new location as soon as reasonably possible.
- 5.4. The General Manager must provide a copy of the Direction to relocate a detainee to a New South Wales Correctional Centre to the Sentence Administration Section (SAS) and Sentence Management Unit (SMU) and request that SAS and SMU initiate transfer of the detainee's file and property to Corrective Services NSW. SAS must request a transfer of the detainee's medical records to Justice Health NSW and Forensic Mental Health Network NSW as appropriate.

- 5.5. SAS will provide Corrective Services NSW with a sentence information package and any necessary information to support classification and placement to Corrective Services NSW prior to the relocation where possible.
- 5.6. Where an Aboriginal and Torres Strait Islander detainee is being relocated, the detainee's Sentence Management Officer will notify the Aboriginal and Torres Strait Islander Services Unit (ASU). The ASU will contact the Corrective Services NSW Aboriginal Strategy and Policy Unit to advise of the relocation and any relevant cultural matters, such as connection to country, family and children.
- 5.7. Where a detainee receives early notification of the relocation, it is their responsibility to notify family and friends of the change in location.
- 5.8. Where the detainee is not provided early notice of the relocation, the detainee's Sentence Management Officer, or in the case of an Aboriginal and Torres Strait Islander detainee, the ASU, must, if the detainee provides consent, provide notice of the relocation to the detainee's family at an appropriate time to minimise any risks, but no later than the next business day following the relocation. Relevant contact information for Corrective Services NSW must also be provided.
- 5.9. The relevant Senior Director must arrange for any property remaining at an ACT correctional centre to be transported to Corrective Services NSW. Where the relocation is temporary the Senior Director may authorise that such property remain at an ACT Centre.
- 5.10. The Sentence Management Officer must contact the Finance Unit and request the transfer of any funds remaining in the detainee's trust account to Corrective Services NSW.
- 5.11. The Sentence Management Officer must contact the Executive Support staff of the ACT correctional centre and request the transfer of the detainee's 'no contact list' and other relevant information to Corrective Services NSW.
- 5.12. Where appropriate the Sentence Management Officer must notify other relevant services of the relocation. The Sentence Management Officer must notify the Sentence Administration Board (SAB) Secretariat for future notification and arrangements for parole hearings. The Victim Liaison Officer (VLO) must be notified if there is a victim, to allow for the relevant information to be provided to the NSW Victim Liaison Officer.

6. Detainee request for return to an ACT Correctional Centre

- 6.1. A detainee subject to a permanent relocation may request to return to an ACT correctional centre by submitting a return request in writing to the General Manager via email to JACS_SentenceAdministration@act.gov.au, including reasons in support of a return.
- 6.2. On receipt of a written return request, the General Manager must arrange an assessment under section 2 of this operating procedure and may, upon review of the *D40.F1: Relocation Assessment Report*, make a recommendation to the Commissioner to authorise return of the detainee.

RELATED DOCUMENTS AND FORMS

- A – D40.F1: Relocation Assessment Report
- B – D40.F2: Notice of Intended Relocation
- C – D40.F3: Relocation Victim Information Form
- D– Direction to relocate a detainee to a New South Wales Correctional Centre
- E – Relocating a Detainee to a NSW Correctional Centre Policy

Corinne Justason
Deputy Commissioner Custodial Operations
ACT Corrective Services
18 March 2022

Document details

Criteria	Details
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Document owner/approver:	Commissioner, ACT Corrective Services
Date effective:	The day after the notification date
Review date:	3 years after the notification date
Responsible Officer:	General Manager of a correctional centre
Compliance:	This operating procedure reflects the requirements of the <i>Corrections Management (Policy Framework) Policy 2020</i>

Version Control			
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V1	November 2021	First issue	K Cullen