

Australian Capital Territory

Corrections Management (Detainee Classification) Policy 2022

Notifiable instrument NI2022–331

made under the

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

1 Name of instrument

This instrument is the *Corrections Management (Detainee Classification) Policy 2022*.

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 previously notified *Corrections Management (Detainee Classification) Policy 2020* [NI2020-638].

Ray Johnson APM
Commissioner
ACT Corrective Services
21 June 2022

DETAINEE CLASSIFICATION

POLICY NO. D18

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 subject to the least restrictive management conditions consistent with their continuing custody, their rehabilitation, and with safety, security, and good order at a correctional centre.

This policy establishes the classification processes for detainees in the custody of ACTCS.

2 SCOPE

This policy applies to all correctional centres in the ACT.

Where required, the Assistant Commissioner Offender Reintegration may establish operational procedures under this policy.

3 DEFINITIONS

Business Day A day that is not a Saturday or Sunday or a public holiday in the ACT.

Classification The categorisation of detainees according to the security conditions appropriate to manage any risks to safety, security, and good order within a correctional centre, or to public safety.

4 PRINCIPLES

- 4.1 Each detainee will receive a security classification in accordance with section 80 of the *Corrections Management Act 2007 (ACT)* based on an assessment of:
- a. the reason for detention, which includes the nature of the offences for which the detainee is in custody
 - b. the risks posed by the detainee if the detainee were to escape
 - c. the risk of the detainee escaping
 - d. the risks posed by the detainee while at a correctional centre
 - e. the risks to the detainee of being accommodated with other detainees, or in a particular area within a correctional centre
 - f. any other relevant consideration.
- 4.2 Classification assessments must be applied consistently for all detainees and without discrimination.

- 4.3 Potential changes to classification must not be used to threaten detainees, or as a punitive or disciplinary measure. Detainees should be encouraged to exhibit positive and social behaviours.
- 4.4 Detainees must be managed consistently with their assigned classification level and must only be subject to the minimum-security measures necessary to ensure secure detention of the detainee.
- 4.5 Detainees must:
- a. receive a classification as soon as practicable and no later than ten (10) business days from admission to a correctional centre in accordance with section 72 of the *Corrections Management Act 2007 (ACT)*
 - b. have their classification reviewed regularly and as needed in accordance with section 7 of this policy:
 - i. to determine whether there has been a change to the risks presented by a detainee
 - ii. to ensure that the detainee continues to be managed in accordance with their security classification.

5 CLASSIFICATION CATEGORIES

5.1 Each detainee will be assigned one of the following classification categories:

- **Maximum**

Detainees who require the highest conditions of security because they present a high escape risk and a high risk to the safety of the community in the event of escape, as well as a high risk to the safety and good order of a correctional centre.

- **Medium**

Detainees who do not require the highest conditions of security because they present a moderate risk to the safety of the community in the event of escape, as well as a moderate risk to the safety and good order of a correctional centre.

- **Minimum**

Detainees who require low supervision and security within a correctional centre, as they present a low risk to the safety of the community, as well as a low risk to the safety and good order of a correctional centre. These detainees may apply to undertake leave from a correctional centre for

the purposes of participation in the Transitional Release Program (TRP), and/or reside in open conditions within the Transitional Release Centre (TRC) subject to meeting the eligibility criteria (*Temporary Leave Policy, Transitional Release Program Policy*).

- 5.2 The Director Sentence Administration Services must ensure the consistent use of the *D18.F1: Initial Security Classification Tool* and the *D18.F3: Security Classification Review Tool* to assess the level of risk and determine a detainee's classification level.
- 5.3 The Senior Director Offender Reintegration must maintain the *Annex A – Offence Severity Scale* to include all relevant categories of offences.
- 5.4 Where a detainee is in custody relating to an alleged or proven offence under Commonwealth law, the Senior Director Offender Reintegration must ensure that the offence is appropriately categorised under the *Annex A – Offence Severity Scale* for the purposes of classification.
- 5.5 Detainees in the following categories must not be assigned an initial classification level below Medium, except for in exceptional circumstances:
- a. detainees sentenced for, or remandees accused of, offences in the 'Highest Severity' category under *Annex A – Offence Severity Scale*
 - b. detainees who are liable for consideration under section 501 of the *Migration Act 1958 (Cth)*

This allows ACTCS to ensure that detainees are subject to the minimum-security requirements necessary, with due consideration to the nature of the offence(s) for which they have been sentenced or accused, and their escape risk (in accordance with section 80(2) of the *Corrections Management Act 2007 (ACT)*).

6 THE INITIAL CLASSIFICATION PROCESS

- 6.1 All detainees entering custody will be subject to an initial classification process using the *D18.F1: Initial Security Classification Tool*.
- 6.2 The Director Sentence Administration Services must ensure that:
- c. all detainee classifications are determined as accurately as possible in accordance with this policy
 - d. the classification process is not undertaken until the information identified below in section 6.3 is collected (where available).

- 6.3 Where available, the following information is essential to ensure detainee classifications are accurate and verifiable:
- a. detainee's legal status i.e. remand, sentenced, appellant.
 - b. the detainee's current sentence and statement of facts
 - c. any outstanding charges
 - d. criminal history
 - e. liability for deportation
 - f. the detainee's electronic record, including disciplinary history (this only applies to detainees who have been in custody in the AMC within the previous 6 months), employment history, non-associations, behaviour etc.
- 6.4 The initial classification process involves the use of a classification tool which assesses a variety of static and dynamic factors to determine a detainee's classification level (including but not limited to age, health factors, severity of offence, criminal history etc).
- 6.5 The Director Sentence Administration must make the final determination for a detainee's initial classification level.
- 6.6 When the initial classification process has been approved for a detainee, the Detainee Classification Coordinator must ensure that:
- a. the classification is updated on the detainee's electronic record
 - b. the Director Sentence Administration Services, Senior Director Offender Reintegration, Senior Director Accommodation and Director Offender Reintegration are informed of the outcome in writing
 - c. a *D18.F2: Classification Notice* is provided to the detainee within two (2) business days, includes the next date for review in accordance with sections 7.4-7.5, and a brief summary of the major contributing factors resulting in the classification outcome. This must be case noted on the detainee's electronic record.
- 6.7 If a remandee is charged with additional offences, or has offences against them dropped, then a new Initial Classification process must be undertaken for them.

7 THE CLASSIFICATION REVIEW PROCESS

Classification Review Process

- 7.1 The classification review process involves the use of the D18.F3: Security Classification Review Tool.
- 7.2 Detainees must be given 4 weeks-notice in writing of their upcoming classification review, and be provided the opportunity to provide input into the process – D18.F4: Detainee Input for Classification Review.
- 7.3 The Director Sentence Administration Services must ensure that a review of a detainee’s classification includes the following three (3) steps:
 - a. The Classification Officer uses the D18.F3: Security Classification Review Tool which assesses a variety of static and dynamic factors (including but not limited to age, health factors, severity of offence, criminal history etc). The Classification Officer may also consult with and consider input from correctional officers, case managers, and any other officer with relevant information regarding the detainee’s risk profile – as per the tool.
 - b. The Classification Review Committee (CRC) must then review the completed D18.F3: Security Classification Review Tool and make a written recommendation to the Director Sentence Administration Services on the detainee’s reviewed classification level.
 - c. The Director Sentence Administration Services must then consider the recommendation provided by the CRC and determine the detainee’s classification.
- 7.4 The Classification Review Committee (CRC) includes the following members:
 - a. Team Leader Case Management Unit (or delegate)
 - b. Team Leader Programs (or delegate)
 - c. The relevant Accommodation Area Manager
 - d. Senior Director Detainee Services (or delegate)
 - e. Team Leader Intelligence Unit (or delegate)
- 7.5 The Director Sentence Administration Services must ensure that a D18.F2: Classification Notice is provided to the detainee within two (2) business days and includes the next date for review in accordance with section 7.4. The major contributing factors which resulted in the new classification status must also be

provided on the D18.F2: Classification Notice. This must be case noted on the detainee's electronic record.

Scheduled Classification Review Timeframes

- 7.6 Detainees will have their classification reviewed:
- a. every six (6) months for those with 4 years or less remaining on their head sentence
 - b. every twelve (12) months for those with more than 4 years remaining on their head sentence
 - c. every six (months) for remandees
 - d. after re-capture in the event of an escape from custody.

Unscheduled Classification Reviews

- 7.7 An unscheduled classification review can be requested by:
- a. a detainee by submitting a Detainee Request Form
 - b. an AMC Case Manager, Senior Director or above via email to DetaineeClassification@act.gov.au,
and must include the reasons for the request.
- 7.8 Unscheduled Classification Reviews must undergo the same process as a scheduled review.
- 7.9 Reasons for a request of an unscheduled review include, but are not limited to:
- a. threats of, or actual, escape from custody
 - b. intelligence indicating a risk to the safety of any person, or to security or good order at a correctional centre
 - c. where a cancellation of visa notice, or advice of liability under section 501 of the Migration Act 1958 (Cth), is received
 - d. where the detainee's behaviour indicates an urgent threat to the safety of any person, or to security or good order at a correctional centre
 - e. where the detainee is charged with a more serious offence, or found guilty of a more serious offence (when they are already sentenced)
 - f. where the detainee has successfully completed or nearly completed an intervention program identified in their case management plan that would substantially impact their risk assessment
 - g. where the detainee has indicated a desire to participate in the Transitional Release Program and has made significant progress in meeting identified goals within their case management plan.

- h. where available information indicates a significant change in the detainee's risk level (such as a change to their health or medical situation)
- 7.10 The Director Sentence Administration Services is only required to consider one request for classification review from a detainee in every six-month period.
- 7.11 The Director Sentence Administration Services or above may decline a request for an unscheduled review under section 7.7 if there is insufficient evidence of significant change in the detainee's risk level.
- 7.12 When a decision is made to decline a request for unscheduled review the detainee must be notified by the Director Sentence Administration Services in writing within five (5) days and written reasons given.

8 APPEALS

- 8.1 Detainees can appeal any classification review outcome in writing within five (5) days of receipt of a *D18.F2: Classification Notice*:
 - a. via email to DetaineeClassification@act.gov.au, or
 - b. by submitting a *Detainee Request Form*.
- 8.2 The Senior Director Offender Reintegration must review all appeal requests within five (5) business days of receipt and advise the detainee of whether the appeal is granted or declined, including the rationale for the decision.
- 8.3 In considering whether to grant or decline the request, the Senior Director Offender Reintegration may:
 - a. consider whether inappropriate, inaccurate or irrelevant information was taken into account in the classification review
 - b. consider whether relevant information, including under section 6.3, was not applied to the classification review
 - c. consider anything else that is relevant to the review request.
- 8.4 Where the request is granted, the Director Sentence Administration Services must review all documentation provided during sections 7.3, as well as consider any directions from the Senior Director Offender Reintegration, within five (5) business days. Where appropriate, the Director Sentence Administration Services may instruct the CRC members to obtain or provide further information to inform the revised recommendation.

8.5 Where an appeal is underway, the detainee will remain on their current classification level (i.e. the level the detainee was on prior to the decision which is subject to the appeal). The detainee's classification level may only be changed after the appeal process has been completed.

9 RECORDS AND AUDIT

9.1 A copy of any record under this policy must be stored on a detainee's electronic record.

9.2 All staff are responsible for creation and management of records and information to meet business and accountability requirements and in accordance with the Territory Records Act.

10 RELATED DOCUMENTS

- Annex A – Offence Severity Scale
- D18.F1: Initial Security Classification Tool
- D18.F2: Classification Notice
- D18.F3: Security Classification Review Tool
- D18.F4: Detainee Input for Classification Review
- Initial Security Classification Operating Procedure
- Security Classification Review Operating Procedure

Ray Johnson, APM
Commissioner
ACT Corrective Services
21 June 2022

Document details

Criteria	Details
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Document owner/approver:	Commissioner, ACT Corrective Services
Date effective:	The day after the notification date
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Compliance with law:	This policy reflects the requirements of the <i>Corrections Management (Policy Framework) Policy 2021</i>
Responsible officer:	Senior Director Offender Reintegration

Version Control			
Version no.	Date	Description	Author
V1	April-19	First Issued	L Kazak
V2	June-22	First Revised	J Papadopoulo

Annex A: Offence Severity Scale

Highest Severity
Aggravated robbery / aggravated burglary (including attempted, in company or with weapon)
Kidnapping (including abduction, forcible confinement)
Murder (including attempted murder, conspiracy to murder, possession of object with intent to kill)
Manslaughter
Sexual offences (including sexual assault, sexual intercourse without consent, sexual intercourse with a young person, maintaining a sexual relationship with a young person or person under special care, act of indecency, incest or similar offences, using child for production of child exploitation material, supplying / trading / distributing child exploitation material / child pornography, grooming and depraving a young person, sexual servitude offences, bestiality)
Stalking (includes with the intent to commit sexual or violent offence)
Terrorism offences (including intentional or reckless, planning, preparation or supporting)
Torture

High Severity
Accessory after the fact (murder)
Aggravated assault (including acts or omissions or danger)
Aid escape / assist prisoner to escape from custody
Animal cruelty (including killing or maiming an animal)
Arson / criminal damage by fire
Assault a public official (including aggravated, prescribed circumstances; public official includes police, custodial staff, ambulance officers)
Conspiracy (other than to murder – see highest severity)
Contravene Domestic/Family Violence Order
Culpable driving causing death
Domestic / Family Violence (D/FV) related offences where physical violence is perpetrated (including choke / strangle / render insensible)
Endanger the life or health of a person
Grievous bodily harm (including threat to inflict, causing, recklessly inflicting, and intentionally inflicting)
Possession and downloading child exploitation material (not distribution, see highest intensity)
Robbery / burglary (including attempted)
Supply intoxicant to people likely to cause harm (including food or drink spiking)

Trafficking of illicit substances (including import, export, manufacture)
Use carriage service to menace / harass / threaten / offend

Moderate Severity
Assault occasioning actual bodily harm (including acts or omissions or danger)
Breach of a Family Court Order or Community Supervision Order (including GBO, Recognizance, ICO, DATO, CSO, suspended sentence)
Breach of Child Sex Offender Registration / reporting obligations (CSORT)
Contravene / Breach of Personal Protection Order (not D/FV related; where D/FV related, see high severity)
Escape from custody (policy custody, correctional facility)
Going armed in public / discharging arms to cause fear
Manufacture and/or possess firearms/ammunition
Money laundering / misappropriation of funds
Neglect of person under care (non sexual)
Pervert the course of justice, intimidate / harass witness
Possess quantity for sale / supply drugs
Reckless driving causing death / grievous bodily harm / bodily harm
Sexual offences (including intimate observations or capturing visual data of a sexual nature, indecent exposure, obscene or indecent acts in public)
Unlawful entry / break and enter

Low
Abuse of public office
Affray
Assault (including common, with intent to resist or prevent arrest; where D/FV related, see high severity)
Breach of bail
Counterfeiting
Cultivate cannabis
Damage property (non-DF/V related), Wilful damage
Driving offences (including drive unlicensed / uninsured motor vehicle / driving under the influence of alcohol or illicit substance / dangerous driving)
Fine default / any fine related offences
Fraud / forgery / false pretences

Perjury / contempt
Possess drug of dependence (DOD) (including possess illicit substance)
Possess / purchase prohibited weapon (other than firearm)
Resist arrest
Theft (including motor vehicle theft, receive/be in possession of stolen property / proceeds of crime)