

Custodial Operations Policy and Procedures

3.4 Segregation

Policy summary

Corrective Services NSW (CSNSW) is responsible for the care and safety of inmates in custody. An offender can be placed in segregated custody for the protection and safety of others. An inmate will only be placed on a segregated custody direction when there is no other reasonable way to manage the risk/s to safety, security, or good order and discipline of the correctional centre.

There are strict time limitations, review and appeal processes when an inmate is placed on a segregated custody direction.

CSNSW works in conjunction with Justice Health and Forensic Mental Health Network (JHNSW) to moderate the effects of a segregated custody direction upon a mentally ill inmate, or one with a suspected mental illness.

Management of Public Correctional Centres Service Specifications

| | |
|-----------------------|---|
| Service Specification | Decency and respect Health services Professionalism and accountability Safety and security |
|-----------------------|---|

Scope

This section applies to all correctional centres and other facilities administered by or on behalf of CSNSW.

It also applies to all CSNSW employees, and where relevant to other personnel such as JHNSW, contractors, subcontractors, and visitors.

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1 Segregation

1.1 Policy

Corrective Services NSW (CSNSW) is responsible for the care and safety of inmates in custody. In some circumstances an inmate can be placed in segregated custody for the protection and safety of others.

Division 2 of the *Crimes (Administration of Sentences) Act 1999* (the Act) outlines the segregation process, including the Commissioner's authority to place an inmate in segregated custody, and the review and appeal processes.

Section 10(2) of the Act authorises the Governor to make a direction to segregate an inmate in their centre. On each occasion an inmate is placed in segregated custody, the Governor must inform the Commissioner (or delegate).

When the Governor or delegate makes a determination to place an inmate in segregated custody, this direction remains in force until it is revoked.

The Governor or other authorised officer directing the segregated custody must ensure there is justification for the direction, and that detailed reports are provided to support the decision. The inmate must be informed of the specific reasons for their segregation.

An inmate's placement in segregated custody can be reviewed by the Serious Offenders Review Council (SORC) at any time after the first 14 days have elapsed, but the inmate must be informed of this when first placed under a direction by the Governor, and sign acknowledgement of this.

Segregated custody must never be used if there are other satisfactory ways of managing the identified risk(s), of the inmate. Governors (and delegates) should consider the use of Behavioural Management Plans (COPP 3.11) in defining and conveying behavioural expectations for inmates.

1.2 Criteria for segregated custody

An inmate can only be placed on a segregated custody direction if in the opinion of the Governor (delegate) such segregation is necessary to secure:

- the personal safety of any other person
- the security of a correctional centre
- good order and discipline within a correctional centre

1.3 Effect of segregated custody

An inmate placed on a segregated custody direction must be detained:

- in isolation from other inmates; or
- in association only with other like inmates, as determined by the Governor or delegate.

The Governor or delegate must ensure that an inmate held in segregated custody:

- is not to suffer any reduction of diet
- is not to be deprived of any rights or privileges other than those determined by the Commissioner (or Governor/delegated officer in exercise of the Commissioner's function to direct an inmate be held in segregated custody), and other than those deemed necessarily incidental to the holding of the inmate in segregated custody.

1.4 Time periods affecting segregated custody

| Direction | Delegated officer | Decision | Annexure | Time-frame to be reviewed | Duration in force |
|--|---------------------------------------|--------------------------|--|---|---------------------------|
| Initial Direction 14 days | Governor or delegate | Direct | <i>Segregated Custody Direction / Review of segregated custody direction</i> | A completed <i>Review of segregated custody direction</i> must be submitted within 14 days from the initial <i>Segregated Custody Direction</i> | 14 days |
| Review of Initial Direction 3 months | General Manager, Statewide Operations | Revoke, confirm or amend | <i>Review of segregated custody direction</i> | Within 7 days from receipt of <i>Review of segregated custody direction</i> (3 month report includes 14 days) | 3 months (if not revoked) |
| Review of Second Report 3 – 6 months | General Manager, Statewide Operations | Revoke, confirm or amend | <i>Review of segregated custody direction</i> | Within 7 days from receipt of <i>Review of segregated custody direction</i> , (3-6 months report) | 3months (if not revoked) |
| Review of 6 months Report 6 month and subsequent 3 month | Commissioner | Revoke, confirm or amend | <i>Review of segregated custody direction</i> | Within 7 days from receipt of <i>Review of segregated custody direction</i> , (6 months report & subsequent) | 3 months (if not revoked) |

Paperwork must be completed, signed by the decision-maker, sent within the above time-frames, and cannot be back-dated.

The Minister is to be notified in writing when an inmate is held in segregated custody for a total continuous period of more than six months.

1.5 Record keeping for segregated custody directions

The *Segregated Custody Direction* must be signed by the decision-maker. It must be stored in EDRMS along with accompanying reports, using the naming convention:

Direction number - MIN – inmate last name – inmate first name – type of order (either 14 days, 3 months, 3-6 months, 6+ months or revocation direction).

For example:

MSP1234567 – 987654 – Smith – John – 14 days

A copy of each segregation direction must also be placed in the inmate's Case Management File (CMF).

1.6 Segregation of inmates on a protective custody direction

An inmate who is subject to a protective custody direction may be placed in segregated custody if their behaviour constitutes a threat to the personal safety of any other person, the security of the correctional centre, or good order and discipline within a correctional centre.

Accordingly, it is possible that two Offender Integrated Management System (OIMS) Care in Placement directions will exist at the same time. There must be separate directions raised for both protection and segregation. The area where the protective custody inmate is accommodated during the time they are also subject to a segregated custody direction is determined by local management.

The procedure to follow is the same as outlined below in 2.2 below (**refer to COPP section 3.2 *Protective custody***).

2 Segregated custody direction

2.1 Policy

The Governor (delegate) may only direct an inmate be placed on segregated custody if they are satisfied such segregation is necessary to ensure:

- The personal safety of any other person
- The security of a correctional centre
- good order and discipline within a correctional centre.

No inmate is to be deprived of any rights or privileges other than those imposed as a penalty for a correctional centre offence with which the inmate has been charged and a determination made. This includes the keeping of approved personal property e.g. goods purchased or under hire.

However, before the inmate's property is moved to the segregation cell, an assessment must be conducted to determine if any of the inmate's property represents a risk to the safety of staff managing the inmate, or to the inmate themselves. Property which presents such a risk must be placed in storage until the risk is minimised. Consider if metal or plastic cutlery is to be replaced by cardboard spoon. A new risk assessment is to be conducted with each review of the segregated custody direction.

The Functional Manager (FM)/authorised officer must visit the inmate daily to check on their wellbeing and establish, on an on-going basis, whether there is any need to continue the segregated custody.

Where daily contact with the inmate or review of the case management file identifies any deterioration (either physical or mental) in the inmate's state of health, the FM/authorised officer must immediately convene a Case Management Unit (CMU)/ Segregation Review Committee (SRC) meeting.

The composition of the CMU/SRC should include a representative from JHNSW. The meeting must assess the inmate and provide an immediate report to the Governor (delegate) and the Commissioner.

Note: Confidential notes or reports that may affect security of the centre or the safety of staff or inmates (if they become general knowledge) should not be placed on the inmate's case management file. These notes or reports should be referred to the correctional centre Intelligence Officer and maintained in a secure area in the Governor's office.

A notation should be made on the inmate's Case Management File (CMF) alerting officers to the existence of other sensitive material (e.g. "*Further information relating to Segregated Custody Direction Number XXXXX is located in the Governor's office*").

2.2 Review of cell placement decision

A review of an inmate's cell placement decision must be undertaken by the officer specified in the LOP upon segregation of an inmate. Refer to *COPP section 5.2 Inmate accommodation*.



2.3 Procedures for initial (14 days) direction

| | Procedure | Responsibility |
|----|---|-----------------------|
| 1. | Direct an inmate be placed in segregated custody by completing annexure <i>Segregated custody direction</i> outlining the reasons for placing the inmate in segregated custody. Where the inmate is placed in segregated custody after-hours or on a weekend by the Officer in Charge (OIC) or FM, review the documentation and make a decision at the earliest opportunity, where possible within 72 hours. | Governor/ delegate |
| 2. | Isolate the inmate in a manner appropriate to the circumstances. | Governor/ delegate |
| 3. | Complete a report to accompany the direction that clearly outlines: <ul style="list-style-type: none"> the details of the threat/s any background/supporting information which led to the belief that a threat/s exists. | Governor/ delegate |
| 4. | Email the direction and accompanying report to the respective Director, Custodial Operations. | Governor/ delegate |
| 5. | Inform JHNSW that an inmate has been placed on a segregated custody direction. | Governor/ delegate |

| | Procedure | Responsibility |
|-----|--|---------------------------------|
| 6. | Place the <i>Segregated custody direction</i> and the accompanying report in the EDRMS file and a copy on the inmate's CMF. | FM/Authorised officer |
| 7. | Before the inmate's property is moved to the segregation cell, conduct an assessment to determine whether any of the property presents a risk to the safety of staff or other inmates, or to the inmate themselves, and place any such property in storage. Consider confiscation of metal or plastic cutlery and issue of cardboard spoon. | Governor/ Authorised Officer |
| 8. | <p>Inform the segregated inmate of the direction and:</p> <ul style="list-style-type: none"> the specific reason/s the inmate is being segregated the rights/privileges available to the inmate the help available to the inmate to assist them to address the reasons for the segregation that they are permitted to contact the Office of the Ombudsman, the Independent Commission Against Corruption (ICAC), and the Legal Aid Commission (they must be given appropriate access to a telephone should such a request be made). <p>Note this information has been given to the inmate on the segregated custody direction.</p> | FM/Authorised officer |
| 9. | Advise the inmate of their right to have SORC review the segregated custody direction after 14 days has elapsed, and direct the inmate to complete and sign annexure <i>Inmate acknowledgement</i> that they have been advised of this right. | Governor/ delegate |
| 10. | Update the OIMS <i>Care-in-Placement</i> module to record the segregated custody direction (see Figure 1 – OIMS Care in Placement module example below this procedure table). | FM/Authorised officer |
| 11. | <p>Visit the inmate daily to check on their well-being and establish if there is any ongoing need to continue the segregated custody.</p> <p>Keep a record of such checks in OIMS case notes.</p> | FM/Authorised officer |
| 12. | <p>Review or develop the inmate's:</p> <ul style="list-style-type: none"> Case Management Plan, Service Needs Plan, or local management plan. <p>to enable the inmate to address the causes for their segregated custody placement.</p> <p>Repeat reviews on a weekly basis incorporating an assessment of the risk to the inmate and the risk they may pose to staff and other inmates if returned to normal discipline.</p> | CMU/SRC |

| | Procedure | Responsibility |
|-----|--|-----------------------|
| 13. | Forward reviews to the Governor for comment and approval including: <ul style="list-style-type: none"> the inmate's participation in any case management programs the need to impose, continue or cease the management procedures for inmates who pose a risk to staff (refer to COPP section 5.4 Entering cell of inmate posing risk). | CMU/SRC |
| 14. | Arrange for a roster for visits by Offender Services and Programs (OS&P) staff to inmates on a segregated direction to discuss issues associated with the inmate's revised Case Management Plan. | FM/Authorised officer |

Figure 1 – OIMS Offender Care in Placement module 14 days

| Offender Care in Placement | | | | | | | | | |
|----------------------------|-------|--|--------|-----------------|------------------|---|-------------|------|--|
| Direction# | Type* | Description | Status | Effective Date* | Review Duration* | Description | Review Date | Days | |
| LBH1191589 | SEG |  SEGREGATED CUSTODY | Active | 03/08/2020 | 14D |  14 days | 16/08/2020 | 0 | |

2.4 Procedures for 3 month report (includes 14 days)

If the Governor determines that segregation should continue beyond 14 days, a new report must be created and sent to the GM Statewide Operations within the initial 14 day period. The following procedure should be followed:

| | Procedure | Responsibility |
|----|---|-------------------------|
| 1. | Complete a new report which clearly: <ul style="list-style-type: none"> outlines the details of the ongoing threat/s any correctional centre offences or behavioural issues within the last 14 days outlines any background/supporting information which led to the belief that a real threat/s exists identifies the goals of the revised case management plan, service needs plan of local management plan. | Governor |
| 2. | Complete annexure <i>Review of segregated custody direction</i> (selecting 3 month report (includes 14 days) checkbox). | Governor |
| 3. | Email the report and all appropriate documentation to the GM Statewide Operations within 14 days after the date on which the direction is given. | Governor |
| 4. | Review and either confirm, revoke or amend the segregated custody direction on the <i>Review of segregated custody direction</i> within 7 days of receiving it. | GM Statewide Operations |
| 5. | Ensure a copy of the decision and any accompanying papers are sent to the Governor. | GM Statewide Operations |

| | Procedure | Responsibility |
|-----|--|------------------------------|
| 6. | Complete <i>Segregated custody checklist</i> and place on EDRMS and a copy in the inmate's case management file. | FM/Authorised officer |
| 7. | Inform the inmate if the segregated custody direction is to continue and: <ul style="list-style-type: none"> explain the specific reasons for the continuation of the segregated custody direction to the inmate remind the inmate of their right to have the SORC review the segregated custody direction if the inmate indicates that they wish to have the decision reviewed by SORC, provide them with annexure <i>Application: Review of segregated or protective custody direction by SORC</i>. | Governor |
| 8. | If completed by inmate, email annexure <i>Application: Review of segregated or protective custody direction by SORC</i> to sorc@dcj.nsw.gov.au and [REDACTED] | Governor/ Authorised Officer |
| 9. | Inform JHNSW that the inmate's segregated custody is to continue. | Governor/ Authorised Officer |
| 10. | Conduct a new risk assessment to determine what property the inmate may have in their cell whilst segregated, considering risks to the safety of staff or other inmates, or to the inmate themselves, and place in storage any property that may present an unacceptable risk. | Governor/ Authorised Officer |
| 11. | Update the OIMS <i>Care-in-Placement</i> module to record the segregated custody direction (see Figure 2 – OIMS Care in Placement module example below this procedure table). | FM/Authorised Officer |
| 12. | Place the <i>Segregated custody direction</i> and the accompanying reports in the EDRMS file and a copy on the inmate's CMF. | FM/Authorised Officer |

Figure 2 – OIMS Offender Care in Placement module 3 months (includes 14 days)

| Offender Care in Placement | | | | | | | | | |
|----------------------------|-------|----------------------|--------|-----------------|-----------|-------------|-------------|------|--|
| Direction# | Type* | Description | Status | Effective Date* | Duration* | Description | Review Date | Days | |
| LGW1190073 | SEG | ↓ SEGREGATED CUSTODY | Active | 04/06/2020 | 3M | ↓ 3 months | 03/09/2020 | 60 | |
| LGW1190073 | SEG | ↓ SEGREGATED CUSTODY | Active | 04/06/2020 | 14D | ↓ 14 days | 17/06/2020 | 13 | |

2.5 Procedures for 3-6 months report (second report)

If the GM, Statewide Operations *Review of segregated custody direction* (3 months report (includes 14 days) confirms that an inmate's segregated custody direction is to continue for a further 3 months, another review is required prior to the expiration of 6 months (since the original direction).

The Governor (or delegate) is to regularly assess the ongoing threat/s during this period and if it is considered, based on these assessments, the direction should continue, the following procedure must be followed.

| | Procedure | Responsibility |
|----|--|--------------------------|
| 1. | Complete a new report which clearly: <ul style="list-style-type: none"> outlines the details of the ongoing threat/s includes any background/supporting information which supports the existence of the ongoing threat/s any correctional centre offences or behavioural issues within the last 3 months includes a CMU/SRC report setting out a revised case plan, if necessary, and placement options. Note: the inmate must be assessed against the HRMCC program criteria before possible transfer and inclusion in that program. | Governor |
| 2. | Complete annexure <i>Review of segregated custody direction</i> selecting the 3-6 months direction (second report) checkbox. | Governor |
| 3. | Email the report and all appropriate documentation to the GM Statewide Operations 14 days prior to the expiration of the review period. | Governor |
| 4. | Review and either confirm, revoke or amend the segregated custody direction on the <i>Review of segregated custody direction</i> (3 Months Report (second report)). Ensure a copy of the decision and any accompanying papers are filed along with the initial direction, and send the decision to the Governor. | GM, Statewide Operations |
| 5. | Notify and scan/email a copy of the signed annexure <i>Review of Segregated Custody</i> to the respective Director, Custodial Operations immediately. | GM, Statewide Operations |

Next, follow steps 6-12 in the *3 months report (includes 14 days)* procedure at 2.3, but with the OIMS Care in Placement module updated as below:

| Offender Care in Placement | | | | | | | | | |
|----------------------------|-------|----------------------|--------|-----------------|------------------|-------------|-------------|------|--|
| Direction# | Type* | Description | Status | Effective Date* | Review Duration* | Description | Review Date | Days | |
| GLB1188807 | SEG | ↓ SEGREGATED CUSTODY | Active | 23/07/2020 | 3M | ↓ 3 months | 22/10/2020 | 11 | |
| GLB1188807 | SEG | ↓ SEGREGATED CUSTODY | Active | 23/04/2020 | 3M | ↓ 3 months | 22/07/2020 | 90 | |
| GLB1188807 | SEG | ↓ SEGREGATED CUSTODY | Active | 23/04/2020 | 14D | ↓ 14 days | 06/05/2020 | 13 | |

2.6 Procedures for 6 months and beyond subsequent reports

If the GM's Statewide Operations 3-6 months (second report) review confirms that an inmate's segregated custody direction is to continue, a further review is required before the expiration of 9 months after the original direction. A further review is then required every 3 months until the inmate is returned to normal discipline.

| | Procedure | Responsibility |
|----|--|--------------------------|
| 1. | Complete a new report which clearly: <ul style="list-style-type: none"> • outlines the details of the ongoing threat/s • includes any background/supporting information which supports the existence of the ongoing threat/s • includes a CMU/SRC report which must include a psychologist report outlining the inmate's progress in meeting the objectives of the case management plan, service needs plan, or other management plan • includes a separate report identifying whether there has been any deterioration in the inmate's mental or physical health. | Governor |
| 2. | Complete annexure <i>Review of segregated custody direction</i> selecting the over 6 month direction checkbox. | Governor |
| 3. | Email the report and all appropriate documentation to the GM, Statewide Operations more than 14 days prior to the expiration of the review period. | Governor |
| 4. | Make a recommendation to either revoke, confirm or amend the segregated custody direction on the <i>Review of segregated custody direction</i> and forward to the Deputy Commissioner, Security and Custody (DCS&C) (ACCC). Ensure a copy of the recommendation and any accompanying papers are filed along with the initial direction at their office. | GM Statewide Operations |
| 5. | Make a recommendation to either revoke, confirm or amend the segregated custody direction on the <i>Review of segregated custody direction</i> and forward to the Commissioner. | DCS&C |
| 6. | Review and either confirm, revoke or amend the segregated custody direction on the <i>Review of segregated custody direction</i> . | Commissioner |
| 7. | Notify and scan/email a copy of the signed annexure <i>Review of segregated custody direction</i> to the respective Director, Custodial Operations and Governor immediately. | GM, Statewide Operations |
| 8. | If confirmed and segregated custody is to continue, send a briefing note to the Minister. | DCS&C |

Next, follow steps 6-12 in the *3 months report (includes 14 days)* procedure at 2.3.

3 Placement of Aboriginal inmates into segregated custody

3.1 Policy

Segregated custody may cause greater distress for an Aboriginal inmate than for other inmates. When considering such placements recognition must be given to the unique social and cultural relationships that exist between Aboriginal people.

Recommendation 181 of the *Royal Commission into Aboriginal Deaths in Custody* states that placing an Aboriginal inmate in segregated custody is undesirable in the highest degree.

However, where segregated custody is necessary, the Governor is to:

- ensure that the relevant Regional Aboriginal Pathways Officer (RAPO) (who will provide support for the inmate) is informed
- provide the segregated inmate with access to a member of the Aboriginal Inmate Committee or appropriate Aboriginal delegate. Such access may assist inmates who are experiencing problems that could lead to physical or mental harm
- Notify the Aboriginal Advisory Unit (AAU) via email at aau@dcj.nsw.gov.au and include any associated documents.

These procedures are in accordance with the recommendations of the *Royal Commission into Aboriginal Deaths in Custody* and must be followed.

4 Inmates who pose a risk to the safety of officers

4.1 Policy

In cases where the risk assessment indicates that an inmate poses a risk to the safety of officers when officers have to enter the cell for routine purposes or when moving the inmate from or to their cell, the Governor (delegate) may direct that additional management procedures be followed (**refer to COPP section 5.4 Entering cell of inmate posing risk**).

The FM/authorised officer will determine whether the movement of the inmate into or from a cell is recorded on video. If the movement is to be recorded, the operator must begin by recording the authorised officer of the movement giving a briefing to the camera on why the inmate is being moved, prior to them giving the initial direction to the inmate.

The video recording must be managed in accordance with the **COPP section 13.9 Video evidence**.

As per the policy at 2.1 above, an assessment must be conducted to determine what property an inmate may have in their cell while on segregation. Any property that

poses a risk to the safety of officers, other inmates or to the inmate themselves must be placed in storage.

5 Segregated custody of mentally ill inmates

5.1 Policy

All instructions and responsibilities set out in this policy apply irrespective of the inmate's mental health.

However, where an inmate with a mental illness, or who is suspected of suffering from a mental illness, is placed on a segregated custody direction, they must be managed collaboratively with JHNSW to ensure their safety. Risks to their wellbeing must be identified, assessed and managed. With the approval of the Governor, these inmates may be placed in a cell other than a designated segregation cell.

JHNSW staff have their own guidelines for assessing segregated inmates. The assessment may involve checking the inmate's medical file for evidence of a mental illness and interviewing the inmate. CSNSW personnel must assist JHNSW in this process, and give them prompt access to the inmate and the inmate's CMF.

CSNSW personnel must also inform the assessing JHNSW nurse of any other relevant information or intelligence involving the inmate that would impact on the assessment. This may include information such as an impending transfer or deportation, death or illness of a family member or friend, a change in the inmate's classification or any recent irrational behaviour or offences in custody.

5.2 Procedures

| | Procedure | Responsibility |
|----|--|---------------------------------|
| 1. | Notify Nursing Unit Manager (NUM) or the Nurse in Charge (NIC) by telephone or in person immediately if an inmate with a mental illness, or who is suspected of suffering from a mental illness, is placed on a segregated custody direction. If JHNSW nursing staff are not on duty, the After Hours Nurse Manager (AHNM) must be informed, and the NUM or NIC immediately informed once they commence duty. | Governor |
| 2. | Give the NUM, NIC or AHNM a brief explanation of the circumstances of the segregated custody order and of any special risks the inmate may present to their safety or security. | Governor |
| 3. | Record on the <i>Segregated Custody Direction</i> the date, time and name of the nurse who was informed. | Governor |
| 4. | Notify NUM, NIC or AHNM immediately if anyone notices: <ul style="list-style-type: none">the inmate displaying unusually adverse, irrational or problematic behaviour; orthe inmate needs medical or psychiatric care; orthe inmate's condition deteriorates. | Governor/ Authorised officer |

| | Procedure | Responsibility |
|----|--|----------------|
| 5. | Assess the inmate within 24hours. | JHNSW |
| 6. | Determine whether the inmate's mental health can be managed while the inmate continues to be segregated. Advise the Governor of this determination in a <i>Health Problem Notification Form</i> (HPNF). | JHNSW |

If the assessment is that **the mental health problem is manageable while in segregation**:

| | Procedure | Responsibility |
|----|---|------------------------------|
| 1. | Develop a joint management plan including: <ul style="list-style-type: none"> details of those behaviours that if observed, would constitute a deterioration in the inmate's mental health and activate an unscheduled review; and how behavioural changes will be managed. | Authorised Officer and JHNSW |
| 2. | Enter a medical alert on OIMS with reference to the Management Plan. | Authorised Officer |

If JHNSW believe the **inmate's mental health is likely to deteriorate while in segregation**:

| | Procedure | Responsibility |
|----|---|------------------------------|
| 1. | Revoke, confirm or amend the segregation direction in response to this advice and how it might affect security and or the safety of personnel and other inmates. | Governor |
| 2. | If the Governor believes that segregation is still necessary, they (or an authorised officer) must meet with the NUM or NIC immediately and plan for the inmate's care including details for: <ul style="list-style-type: none"> the level of custodial observation and supervision the level of nursing observation ongoing regular access to mental health professionals and if necessary placement in the Long Bay Hospital; and managing the risks to security and safety of personnel and other inmates. | Authorised Officer and JHNSW |

Note: Where an inmate with a mental illness is at risk of self-harm or suicide, a *Mandatory Notification form* must be raised in accordance with **COPP section 3.7 Management of inmates at risk of suicide or self-harm**.

If an inmate with an identified mental health illness is to have the segregated custody order extended beyond three (3) months:

| | Procedure | Responsibility |
|----|---|----------------|
| 1. | Inform JHNSW at least four weeks before the expiration date when an extension to the order is being considered. | Governor |
| 2. | Allow for JHNSW to arrange for the inmate to be examined by a psychiatrist well before the current order expires to assess the inmate's mental health and the risks to the inmate's mental health of continued segregation. | Governor |
| 3. | Following the psychiatric recommendation, advise the Governor of any further psychiatrist's recommendations affecting the management of the inmate on a <i>Health Problem Notification Form</i> . | NUM/NIC |
| 4. | Note any psychiatric recommendations on the correctional centre's request for a continuation of <i>Segregated Custody Direction</i> . | Governor |

6 Transfer of inmates held in segregated custody

6.1 Policy

In accordance with section 15 of the *Crimes (Administration of Sentences) Act 1999*, the segregated custody direction continues to apply:

- in relation to the receiving correctional centre, and
- in relation to the conveyance (escort vehicle) and in any correctional centre the inmate is held during the transfer to the receiving correctional centre.

Governors must not revoke a segregated custody direction prior to the transfer of the inmate unless an assessment report indicates that the inmate is no longer a threat to staff or other inmates.

When transferring an inmate on segregation orders, the Governors of both the sending and receiving centres must complete the *Governor's assessment and review advice* form, and Governor of the sending centre must send a copy to the MOS Inmate Transfers Unit along with the Section 23 request.

Where the inmate is also subject to a protective custody direction, the same procedures as 6.2 below must be followed.

6.2 Procedures for transfer of inmates under segregated custody direction

Where the Governor (delegate) believes the inmate still poses a significant and ongoing threat to the safety of others or to the security or good order and discipline of the correctional centre, prior to transfer, the following actions must be taken:

| | Procedure | Responsibility |
|----|--|------------------------------------|
| 1. | Make appropriate entry on the alert screen of the OIMS. | Governor/ Authorised officer |
| 2. | Complete Part A of the annexure <i>Governor's assessment and review advice</i> and email to the Governor/OIC of the receiving centre. It is recommended that telephone contact also be made to facilitate full discussion of the inmate's circumstances and to expedite the process. | Governor/OIC of the sending centre |
| 3. | Complete Part B of the <i>Governor's assessment and review advice</i> and email back to the Governor/OIC of the sending correctional centre. | Governor/OIC of receiving centre |
| 4. | Email the completed <i>Governor's assessment and review advice (GARA)</i> and the <i>Section 23 Transfer request</i> to the MOS Inmate Transfers Unit. Ensure a copy of the GARA is stored on EDRMS and the inmate's case file. | Governor/OIC of sending centre |
| 5. | Send a copy of the <i>Governor's assessment and review advice</i> to the Governor/OIC of any correctional centre(s) where the inmate may be housed in transit to the receiving centre | MOS Inmate Transfers Unit |

Within 72 hours after the inmate's arrival at the receiving correctional centre:

| | Procedure | Responsibility |
|----|--|----------------|
| 1. | Assess the information identified in the <i>Governor's assessment and review advice</i> . Make telephone contact if further information is required. | Governor/OIC |
| 2. | Review the grounds on which the inmate was placed in segregated custody. | Governor/OIC |
| 3. | Revoke, confirm or amend the segregated custody direction. | Governor/OIC |
| 4. | Note decision in OIMS. | Governor/OIC |

6.3 Procedures for inmates with a mental illness

| | Procedure | Responsibility |
|----|--|---|
| 1. | Consult the NUM/NIC about the method of transportation – for example, in some cases the inmate can be transported in an ordinary escort vehicle but in other circumstances transport in a sedan or ambulance may be recommended. | Governor of sending correctional centre |
| 2. | Determine the method of transport balancing the inmate's mental health needs with any security risks. | Governor of sending correctional centre |

| | Procedure | Responsibility |
|----|--|---|
| 3. | <p>Inform the receiving centre of any security risks or mental health problems as noted on the <i>Health Problem Notification Form</i>.</p> <p>This information must be written on the request for a Section 23 (<i>Crimes (Administration of Sentences) Act 1999</i>) Order with a copy of the current management plan attached.</p> <p>Ensure the inmate's CMF and Medical File(s) accompany the inmate in the transfer.</p> | Governor/ Authorised Officer of sending correctional centre |

7 Transfer of inmates from the High Risk Management Correctional Centre (HRMCC)

7.1 Policy

When an inmate participating in the HRMCC program is to be temporarily transferred to another correctional centre, the HRMCC Governor (delegate) should consider whether the inmate constitutes, or is likely to constitute, a threat to:

- the personal safety of any other person
- the security of a correctional centre
- the good order and discipline within a correctional centre.

If a threat exists, the Governor (delegate) should make a segregated custody direction outlining the nature of the concerns.

When the inmate is returned to the HRMCC, if the inmate is on a segregation direction, the Governor (delegate), HRMCC, must review the segregated custody direction for the purpose of deciding whether to revoke, continue or amend the segregated custody direction.

7.2 Procedures

| | Procedure | Responsibility |
|----|---|---|
| 1. | Confirm, revoke or amend the segregated custody direction within 72 hours of the inmate's arrival at the receiving centre in accordance with section 15(2) of the <i>Crimes (Administration of Sentences) Act 1999</i> . | Governor (receiving correctional centre) |
| 2. | <p>Where it is likely the initial direction will expire while the inmate is absent from the HRMCC:</p> <ul style="list-style-type: none"> • review all information • consult with the HRMCC Governor regarding any intention not to seek an extension or to vary the direction. | Governor (receiving correctional centre) |
| 3. | Supply Governor of the housing centre with documentation relevant to the segregation review. | Governor HRMCC |

| | Procedure | Responsibility |
|----|--|---|
| 4. | Determine whether to extend, revoke, or amend the segregated custody direction and inform the HRMCC Governor. | Governor (receiving correctional centre) |
| 5. | Complete annexure <i>Review of segregated custody direction</i> , scan/email the report and all appropriate documentation to GM, Statewide Operations. | Governor (receiving correctional centre) |

8 Review of segregated custody direction by the SORC

8.1 Policy

An inmate whose total continuous period of segregated custody exceeds 14 days may apply in writing to SORC to have the direction reviewed.

8.2 Procedures

| | Procedure | Responsibility |
|----|---|--------------------|
| 1. | Ensure the inmate has completed annexure <i>Application: Review of segregated or protective custody direction by SORC</i> if they elect to apply to SORC for a review of a segregated custody direction. | FM |
| 2. | Forward completed application to the Governor. | FM |
| 3. | Record in journal: <ul style="list-style-type: none"> the name and MIN of the inmate the date the completed review application was received from the inmate the date the completed form was forwarded on to the Governor. | FM |
| 4. | Record in the Governor's journal that the completed review application has been received, noting: <ul style="list-style-type: none"> name and MIN of inmate date received. | Governor |
| 5. | Email completed application, Governor's Report and any other supporting reports in relation to the segregation direction decision to sorc@dcj.nsw.gov.au within 2 working days of receipt of the inmate's application. | Authorised officer |

| | Procedure | Responsibility |
|-----|--|---------------------------------|
| 6. | Obtain copies of all documentation relevant to the period of segregated custody being reviewed, including: <ul style="list-style-type: none"> the segregated custody direction all reports on which the direction was based a chronology setting out compliance with the making and reviewing of the direction the inmate's running sheets/case notes misconduct reports (relevant to the current segregated custody period) intelligence reports/assessments relevant to the direction under review | Governor |
| 7. | Obtain any additional reports necessary to support the direction from Governors (delegates) of other correctional centres, or any other reports requested by SORC, and keep a record of requests for such reports. | Governor |
| 8. | Ensure all relevant documentation which will be relied on at the review hearing remains unedited and is emailed to [REDACTED] within two working days, with the name of a contact person at the centre. The same material must also be sent to SORC as per step 5 above. | Governor |
| 9. | Record dispatch of documentation against the previous entry in the Governor's journal. | Governor |
| 10. | Email the correctional centre immediately, the signed annexure <i>Application: Review of segregated or protective custody direction by SORC</i> confirming receipt of any documents pertaining to the application for review of segregated custody. | Senior Legal Officer, DCJ Legal |
| 11. | Respond to any inquiries from DCJ LEGAL regarding evidence. | SORC |
| 12. | Email the signed annexure <i>Application: Review of segregated or protective custody direction by SORC</i> to the correctional centre confirming receipt of the application for review of segregated custody. | SORC Secretariat |
| 13. | Review the application and determine a course of action. | SORC |
| 14. | Determine if the list of witnesses the inmate has requested is appropriate. | SORC |
| 15. | Email annexure <i>Notice of review hearing</i> to the Governor of the relevant correctional centre for service on the inmate if the SORC has not rejected the application. | SORC Secretariat |
| 16. | Notify DCJ LEGAL of the review hearing date immediately after it is fixed and at least seven days before the hearing. | SORC Secretariat |

| | Procedure | Responsibility |
|-----|--|---------------------------------|
| 17. | Ensure the inmate completes annexure <i>Notice of review hearing</i> declaration indicating whether they intend to attend the hearing of the review, and whether they will have legal or alternative representation attending, if SORC approves. | Governor/ Authorised Officer |
| 18. | Complete annexure <i>Notice of review hearing</i> declaration and return it to SORC by email. | Governor |

8.3 Review hearings conducted by video conferencing

Where an inmate is housed in a correctional centre outside the metropolitan area and that centre has video conferencing facilities, SORC may direct the review hearing be conducted via video conferencing.

If this occurs, SORC will conduct the review hearing from the video studio at the Silverwater Correctional Complex. Legal representatives may attend the review hearing at this location. Approved witnesses will be interviewed via video conference from the relevant correctional centre.

8.4 Procedure for review hearings conducted by video conferencing

| | Procedure | Responsibility |
|----|--|---------------------------------|
| 1. | Determine the date of the hearing and witnesses to occur. | SORC Secretariat |
| 2. | Confirm AVL booking through Just Connect and advise the correctional centre of the time/date of the hearing to ensure the inmate is available. | SORC Secretariat |
| 3. | Organise for the attendance of the inmate and any witnesses approved by SORC. | Governor/ Authorised Officer |
| 4. | Where possible, use multiple AVL studios to ensure separation of inmate from witnesses. | Authorised Officer |
| 5. | Where possible, ensure facilities are able to display evidence such as CCTV footage | Authorised Officer |

8.5 Witnesses at review hearings

SORC will use the following annexures to alert the Correctional Centre of who will appear and how:

- *Instrument requiring a witness to give evidence to the Serious Offenders Review Council (SORC)* (includes telephonically)
- *Instrument requiring a witness to produce documents to the Serious Offenders Review Council (SORC)*
- *Affidavit of service of instrument delivery* (includes personally and by post).

8.6 Determinations by the SORC

The SORC quorum (or in the case of EHRR inmates, the Chairperson) will either confirm, revoke or amend the segregated custody direction following the review hearing by completing annexure *Notice of determination of confirmation/ amendment/revocation of Segregated/protective custody direction* as soon as the determination is made.

8.7 Procedures for determinations by the SORC

Once the Governor receives a copy of the completed annexure, they are to

| | Procedure | Responsibility |
|----|---|----------------|
| 1. | Place a copy of the completed annexure on the inmate's CMF. | Governor |
| 2. | Ensure the determination is carried out. | Governor |

8.8 SORC considerations

SORC may refuse to review the direction if:

- the application does not disclose substantial grounds for a review
- SORC has previously determined the same direction and there has been no substantial change in the grounds for review.

SORC is not bound by the rules of evidence.

Evidence can be received in writing by fax/email, stored in a computer, telephone or any other electronic means.

In a review, SORC must consider:

- the legality of the segregated custody direction
- the reasonableness of the direction
- whether the direction was necessary to secure the personal safety of the inmate or any other person
- whether the direction was required to protect the security of, and the good order and discipline within the correctional centre
- whether the direction is in the interest of the public.

8.9 Suspension directions

The Chairperson of SORC may give a direction for:

- the suspension of an inmate's segregated custody direction
- the transfer of an inmate to a different correctional centre
- the confirmation of the inmate's segregated custody direction
- variation of the inmate's segregation custody direction.

An annexure *Serious offenders review council - suspension direction* may be given at any time after an application for a review is made and before it is determined. While it

is in force, the inmate is not to be held in segregated custody unless a new segregated custody direction is initiated.

The Chairperson may at any time vary or revoke a suspension direction. A suspension direction does not revoke a segregated custody direction.

A direction for the transfer of an inmate to a different correctional centre may be given:

- if the Chairperson considers that the inmate's transfer would facilitate the review of the segregated custody direction
- for any other reason that the Chairperson thinks fit.

8.10 Effect of SORC decision on further segregated custody

While a Governor (delegate) is obliged to enforce any decisions of SORC, such decisions affect only the segregated custody direction that is subject to the review from which the decision was made.

If SORC orders the revocation of a segregated custody direction, once it is revoked, that order ceases to have effect and the inmate must be returned to normal discipline.

If a Governor (delegate) obtains further information or other circumstances arise that SORC had not considered in the review, and if such information justifies that a new direction is warranted, the Governor (delegate) may initiate a new direction.

9 Reviewing and monitoring of segregated custody directions

9.1 Policy

It is important that segregated custody directions are reviewed and monitored by Governors.

At the local level the Governor (delegate) must ensure:

- all documentation has been completed accurately and submitted on time
- the CMU/SRC review or assess the continued nature of the threat/s or the circumstances that led to the direction being made
- any documentation to be forwarded to the SORC and DCJ Legal is completed accurately
- OIMS has been accurately maintained and updated.

10 Revocation of segregated custody directions

10.1 Policy

Section 17 of the *Crimes (Administration of Sentences) Act 1999* authorises a Governor (delegate) of a correctional centre to revoke a segregated custody direction

given by the Commissioner or any other approved delegate. A Governor (delegate) can revoke a segregated custody direction only after a thorough assessment indicates that the original threat(s) no longer exist or an appropriate means of eliminating the threat(s) is available. The *Revocation of segregated custody direction* must be completed and stored on EDRMS.

Note: An inmate cannot be placed into normal discipline and at the same time be subject to an active segregated custody direction. For example, a Governor (delegate) cannot test an inmate's behaviour in normal discipline and at the same time maintain an active segregated custody direction that could be utilised if the inmate does not conform.

When a direction has been revoked and it is necessary to segregate the inmate again, a new direction must be made (refer section above titled *Segregated custody direction* at 2).

10.2 Inmate assaults on staff

Where an inmate has been segregated as a result of an assault on a CSNSW staff member, and the period of segregation is being served at the centre where the staff member is employed, the Governor (delegate) of the centre is to seek the written views of that staff member prior to assessing whether or not to revoke the segregated custody direction. The Governor (delegate) is to then discuss the decision to revoke the direction with the respective Director, Custodial Corrections.

Where the Governor (delegate) determines it is appropriate to revoke the direction and return an inmate to normal discipline, they must put in place appropriate protocols to address concerns of centre employees (e.g. restrict the inmate's movement within the correctional centre, arrange for review of the inmate's classification and placement by the Classification and Placement Team (CPT)/SRC or roster the employee so they do not come in contact with the inmate).

Where appropriate, the Governor's (delegate) decision to revoke the direction will be based on the employee's report, discussions with the respective Director, Custodial Operations, and other considerations.

10.3 Procedures

| | Procedure | Responsibility |
|----|---|--------------------|
| 1. | Collate required information, complete the <i>Revocation of segregated custody direction</i> assessment/checklist and forward to the Governor for decision. | Authorised officer |
| 2. | Review the <i>Revocation of segregated custody direction</i> assessment/checklist collated by the Authorised officer. Consider the inmate's behavioural history and their behaviour during the period of segregated custody. Assess and determine whether a threat/s, as stated in the direction, either no longer exists or may be more appropriately be managed by means other than segregated custody. | Governor |

| | Procedure | Responsibility |
|----|--|---------------------------------|
| 3. | If satisfied the direction should be revoked, complete the <i>Revocation of segregated custody direction</i> addressing all points and clearly outlining the reason/s why the direction is being revoked. | Governor |
| 4. | Forward (scan/email/fax) the completed <i>Revocation of segregated custody direction</i> to the respective Director, Custodial Operations (and if the inmate has appealed, a copy is also to be sent to SORC). | Authorised officer |
| 5. | Make arrangements for the appropriate movement and placement of the inmate. | Governor/ Authorised officer |
| 6. | Ensure that the OIMS Care-in-Placement module is updated to record the revocation. | Governor/ Authorised Officer |
| 7. | Ensure that the <i>Revocation of segregated custody direction</i> is placed on EDRMS and the inmate's case management file. | Governor/ Authorised Officer |

Note: Where an inmate has sought a review by the SORC of segregated custody direction and that direction is revoked by the Governor prior to the review hearing, a copy of the revocation should be emailed to SORC Executive Officer & Registrar, on SORC@dcj.nsw.gov.au and the DCJ LEGAL [REDACTED]

11 Quick links

- [Related COPP](#)
- [Forms and annexures](#)
- [Related documents](#)

12 Definitions

| | |
|------------------|---|
| DCS&C | Deputy Commissioner, Security and Custody |
| AHNM | After Hours Nurse Manager |
| Assigned Officer | Assigned officer refers to either: <ul style="list-style-type: none"> • an individual officer or • an officer who is in a position (substantive or temporary) or a post that the Governor (or Manager of Security in Charge of a Correctional Centre) has assigned to perform a particular duty or task. The Governor (or MOS in charge) may delegate the role of assigning officers to perform duties to a Managers of Security, Functional Managers or Senior Correctional Officers or other officers who have direct reports. Assignment to a duty or task may be provided in Local Operating Procedures (LOPs), Statement of Duties, Local Orders, Post Duties, verbally or may be implied as a |

| | |
|-------------------|---|
| | logical extension of the officer's post, position, or role. |
| AVL | Audio Visual Link |
| COPP | Custodial Operations Policy and Procedures |
| CMF | Case Management File |
| CMU | Case Management Unit |
| CPT | Classification and Placement Team |
| CSI | Corrective Services Industries |
| CSNSW | Corrective Services New South Wales |
| Delegated officer | Any officer who occupies or acts in the following positions which the Governor has delegated certain Governor's functions to deal with correctional centre offences: <ul style="list-style-type: none"> • Manager of Security • Functional Manager. |
| DCJ Legal | NSW Department of Communities & Justice Legal (formerly known as Office of the General Counsel (OGC)) |
| FM | Functional Manager |
| HPNF | Health Problem Notification Form |
| HRMCC | High Risk Management Correctional Centre |
| JHNSW | Justice Health & Forensic Mental Health Network (JHNSW) is a division of NSW Health providing health services to inmates. |
| ICAC | Independent Commission Against Corruption |
| MIN | Master Index Number |
| OIMS | Offender Integrated Management System |
| NIC | Nurse In Charge |
| NUM | Nursing Unit Manager |
| RAPO | Regional Aboriginal Pathways Officer |
| Segregation cell | A cell used to house inmates who are in segregated custody in accordance with the provisions of Section 10 of the Crimes (Administration of Sentences) Act 1999. The contents of a segregation cell are the same as those in a normal cell. All segregation cells must be properly identified in the housing location table in the Offender Integrated Management System. |
| SORC | Serious Offenders Review Council |
| SRC | Segregation Review Committee |

13 Document information

| Business centre: | Statewide Operations | |
|-------------------------|---|--|
| Approver: | Dr Anne Marie Martin (Deputy Commissioner Security and Custody) | |
| Date of effect: | 16 December 2017 | |
| EDRMS container: | 18/7011 | |
| Version | Date | Reason for amendment |
| 1.0 | 16/12/17 | Initial publication (<i>Replaces sections 12.1.4 and 14 of the superseded Operations Procedures Manual</i>) |
| 1.1 | 18/02/20 | Obligation to inform the inmate of their right to appeal to SORC when the direction is first raised, included in 1.1 <i>Policy</i> and 2.2 <i>Procedures for initial direction</i> |
| 1.2 | 12/03/20 | General formatting update and improvements |
| 1.3 | 20/10/20 | <p>Delegations have been amended at 1.4 and throughout to enable General Manager Statewide Operations to review segregated custody directions at 14 days, 3 months and 3-6 months.</p> <p>Obligation for the Governor to conduct an assessment before revocation of a segregated custody order on transfer to another centre (7.1).</p> <p>Introduction of new annexure <i>Revocation of segregated custody direction</i>.</p> <p>Obligation for the Governor or authorised officer to conduct a risk assessment on the property of an inmate before moving that property to a segregation cell (2.1, 2.2, 2.3).</p> <p>Clarification of procedures for <i>Review of segregated custody direction by SORC</i> at part 8.</p> <p>Obligation to store all segregation orders and associated documentation on EDRMS, with prescribed naming convention (1.1 and throughout).</p> <p>Clarification of procedures for review hearings by SORC when conducted via AVL (8.4).</p> <p>Inclusion of OIMS <i>Care in Placement</i> screen-shots to assist in record keeping.</p> <p>Updated email contacts for SORC and Legal (General Council).</p> |
| 1.4 | 20/11/20 | Clarified the responsibilities and procedure for revoking a segregated custody direction at [10.3] procedures |

| | | |
|-----|----------|---|
| 1.5 | 10/07/23 | Update to the policy and procedures for completing the <i>Governor's assessment and review advice (GARA)</i> when transferring inmates who held in segregated custody at Part 6 <i>Transfer of inmates on protective custody</i> . Refer to <i>Deputy Commissioner's Memorandum 2023/23 Governor's assessment and review advice for the transfer of inmates on segregation or protection</i> . |
| 1.6 | 14/08/24 | Inclusion at subsection 2.2 <i>Review of cell placement decision</i> for officers to review a cell placement decision upon segregation of an inmate. Refer to Deputy Commissioner's Memorandum 2024/33. Inclusion at subsection 3.1 <i>Policy</i> to notify the Aboriginal Advisory Unit of any inmate placed into segregated custody. Changing of Authorised officer to Assigned officer with appropriate definition. |