

GENERAL DISTRIBUTION

**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

NUMBER: 326.00

EFFECTIVE DATE: 21 December 2022

**SUBJECT: SEGREGATION UNITS
(ADMINISTRATIVE &
PUNITIVE)**

POLICY DIRECTIVE

PURPOSE:

To provide guidelines and procedures concerning the removal of an inmate from general population and assignment to a segregation unit for punitive or administrative segregation.

REFERENCE:

U.S. Department of Justice, United States Marshals Service, Prisoner Operations Division, Detention Services Intergovernmental Agreement with the West Virginia Division of Corrections and Rehabilitation; and National Commission on Correctional Health Care (NCCHC) §§P-G-02, P-G-04, J-G-02 and J-G-04.

RESPONSIBILITY:

Superintendents shall be responsible for enacting Operational Procedures and ensuring the requirements of this Policy Directive are included in applicable Post Orders.

CANCELLATION:

Any previous written instruction on the subject including DCR Policy Directive 326.00, dated 01 July 2022.

APPLICABILITY:

All facilities within the Division of Corrections and Rehabilitation (DCR) that have custody of adult inmates. This Policy is available for general distribution and is to be made available for inmate review upon the effective date.

DEFINITIONS:

Administrative Segregation: A form of separation from the general population which limits and restricts contact with other inmates in the population and which is used when

the continued presence of the inmate in the general population would pose a serious threat to life, property, self, staff, or other inmates, or to the security or orderly running of the facility.

Detention: A level of pre-hearing custody, not atypical of correctional facility life, but which is necessary to preserve institutional order and security. Detention is both preventive and reactive in nature. As such, detention can allow for the removal and segregation of an inmate from general population for purposes including, but not limited to, allowing the responsible official to conduct an investigation into the circumstances of the incident(s), ensuring immediate control and supervision, protecting potential victims, ensuring witnesses against intimidation, and ensuring facility security and public safety.

Punitive Segregation: A post-hearing custody that is reactive in nature. Punitive Segregation is ordered by a Correctional Hearing Officer following a hearing under the policy and procedures governing inmate discipline wherein it has been determined that there is some evidence the inmate committed the rule violation.

Special Management: Any specific procedure designed to provide for the safety and security of those members of the inmate population who, based on verified information, would be in jeopardy from another member or other members of the inmate population. Special Management is governed by DCR Policy Directive 326.03.

POLICY:

- I. An inmate's removal from general population and placement in Detention status by the Shift Commander or higher authority may be authorized to ensure immediate control and supervision, protect potential victims, ensure witnesses against intimidation, to maintain or restore order, facility security or public safety, or causes of a similar nature and gravity.
- II. When an inmate is placed on Detention, he/she will either be released to his/her prior custody, served with a Disciplinary Incident Report charging him/her with a rule violation, or served with a Notice of Assignment (**Attachment #1**) advising the inmate of a pending Administrative Segregation Hearing.
- III. An Initial Administrative Segregation Hearing will take place in not less than forty-eight (48) nor more than seventy-two (72) hours (excluding weekends and holidays) from the time the inmate was served with the Notice of Assignment.
 - A. This time period may be extended by approval of the Administrative Segregation Committee Chairperson either for administrative reasons or at the request of the inmate. The inmate's request must be submitted in writing within twenty-four (24) hours of being served with the Notice of Assignment.
 - B. The Administrative Segregation Committee shall consist of at least three (3) qualified persons, specifically designated for this purpose. This committee shall be multi-disciplinary and appointed in writing by the Superintendent.

- C. To protect relevant medical and mental health disorders of the particular inmate that may require accommodations, health care and mental health staff shall not serve on Administrative Segregation Committees but may provide information relevant to medical and mental health disorders of the particular inmate.
- IV. The following procedures will be utilized for Initial Administrative Segregation Hearings.
- A. The Chief of Security/Chief Correctional Officer may designate a qualified staff person to review and prepare information for presentation at the Initial Administrative Segregation Hearing. The review and preparation of this information shall be accomplished in a timely manner in order to comply with the timeframes for the hearing.
- B. The Superintendent will designate in writing those subordinates authorized to present confidential information to the committee on the record but outside the presence of the inmate.
- C. The inmate may waive, in writing, his/her personal appearance before the Administrative Segregation Committee. If the inmate does not appear, a review will still be conducted with the Administrative Segregation Committee noting the inmate's absence.
- D. The inmate's appearance before the Administrative Segregation Committee will be documented on the Administrative Segregation Initial Hearing Form (**Attachment #2**). All Administrative Segregation hearings will be magnetically recorded, catalogued and stored.
- E. The inmate shall be permitted to be an active participant in the hearing and request assistance from an inmate representative. The representative cannot currently have a restricted classification status (e.g., Punitive Segregation, Administrative Segregation, Special Management). The inmate will not be allowed to have an attorney present.
- F. The inmate shall be afforded the opportunity to call and cross-examine witnesses at the Initial Administrative Segregation Hearing, subject to the prior approval of the Committee Chairperson. The inmate will be required to provide a list of proposed witnesses and the nature of their testimony to the Committee Chairperson at least twenty-four (24) hours prior to the hearing. The Chairperson may refuse a witness if a legitimate threat to security exists and/or if the testimony they are going to provide is redundant information or is not relevant to the matter at hand.
- G. The Administrative Segregation Committee shall recommend to the Superintendent that the inmate be placed on Administrative Segregation status or returned to their previous status (**Attachment #3**). The Administrative Segregation Committee will base its recommendation upon the preponderance of available information or evidence, such as:

1. A record of disciplinary rule violations, which shows a pattern or tendency of behavior, which is violent, assaultive, or otherwise threatening to the inmates, staff, self, or the public.
 2. Information from staff or other inmates indicating that the inmate has engaged in or plans to engage in activities which may be a threat to the public, staff, self, or other inmates or the safe and secure operation of the facility; including, but not limited to, assaults, repeated insubordination, agitation, indebtedness, cell larceny, security threat group membership or tension, strong-arm tactics, riot, hostage taking, suspicion of being an informant, multiple escapes or escape plans, predatory behavior, planning, leading, agitating, or participating in demonstrations, sit down strikes, threatening behavior or words; or to otherwise commit a serious rule violation.
 3. Psychological testing, psychiatric examinations, or a criminal record showing a propensity for violence.
 4. A review of the inmate's total record indicates that the inmate is not able to function in the general population.
- H. The inmate shall be notified in person of the Administrative Segregation Committee's recommendation immediately upon the conclusion of the hearing. The inmate and the Superintendent shall both be notified, in writing, of the Administrative Segregation Committee's recommendation (**Attachment #3**) within twenty-four (24) hours, excluding weekends and holidays, of the conclusion of the hearing.
- I. The Superintendent shall review the Administrative Segregation Committee's recommendation and inform the inmate whether he/she will uphold the recommendation or overrule the recommendation of the Administrative Segregation Committee (**Attachment #4**).
- J. An inmate may appeal his/her placement in Administrative Segregation to the Commissioner. The Commissioner may assign a designee to respond to an inmate's appeal. The appeal must be filed in writing (**Attachment #5**) within five (5) days of receipt of the Superintendent's decision.
- V. There shall be a review of the status of inmates in Administrative Segregation by the Administrative Segregation Committee or other authorized staff group every seven (7) days for the first two (2) months and at least every thirty (30) days thereafter.
- VI. An inmate shall be placed in Punitive Segregation for a rule violation only after a hearing by a Correctional Hearing Officer. There shall be a sanctioning schedule for institutional rule violations. Continuous confinement for more than thirty (30) days shall require the review and approval of the Superintendent or designee.

- A. Inmates held in Punitive Segregation for periods exceeding sixty (60) days shall be provided the same program services and privileges as inmates in Administrative Segregation Status.
 - B. An inmate who is serving sixty (60) days Punitive Segregation will be reviewed by the Administrative Segregation Committee within twenty-one (21) days prior to their Punitive Segregation release. If placed on Administrative Segregation, the remainder of the inmate's Punitive Segregation sentence shall become null and void.
- VII. The following conditions of confinement will apply to all inmates in Punitive and Administrative Segregation, unless otherwise noted:
- A. Prior to an inmate being placed in segregation, health care staff will be informed and provide a screening and review of the inmate's health record.
 - B. Correctional Officer staff shall personally observe all inmates in segregation once per hour, but no more than sixty (60) minutes apart, on an irregular schedule. Inmates who are violent or mentally disturbed or who demonstrate unusual or bizarre behavior shall receive more frequent observation. Suicidal inmates require special precautions and constant observation, as determined by the medical/mental health provider's clinical judgement and should not be housed in segregation units. DCR Policy Directive 410.18 contains suicide prevention and intervention directives.
 - C. Inmates in segregation shall receive daily visits from the senior correctional supervisor in charge, daily visits from a qualified health care staff (unless medical attention is needed more frequently), and visits from members of the program staff upon request.
 - D. A qualified mental health professional shall personally interview and document on any inmate remaining in segregation for more than thirty (30) days.
 - E. Staff who work directly with inmates in segregation on a regular and daily basis shall be subject to specific criteria, supervision, and rotation in and out of the segregation unit.
 - F. Correctional staff operating segregation units shall maintain a permanent chronological log for each inmate (**Attachment #6**).
 - G. All inmates in segregation shall be provided prescribed medication, clothing, that is not degrading and access to basic personal items for use in their cells unless there is imminent danger that an inmate or any other inmate(s) will destroy an item or induce self-injury.
 - H. Inmates in segregation shall have the opportunity to shave and shower at least three (3) times per week.
 - I. Inmates in segregation shall receive laundry, barbering, and hair care services and shall be issued an exchange of clothing, bedding, and linen on the same basis as inmates in

- general population. Exceptions shall be permitted only when found necessary by the senior officer on duty; any exceptions shall be recorded in the unit log and justified in writing.
- J. Alternative meal service may be provided to an inmate in segregation who uses food or food service equipment in a manner that is hazardous to self, staff, or other inmates. Alternative meal service shall be on an individual basis, shall be based on health or safety considerations only, shall meet basic nutritional requirements, and shall occur with the written approval of the Superintendent or designee and responsible health authority or designee. The substitution period shall not exceed seven (7) days.
 - K. Inmates in segregation shall be able to write and receive letters; however, mail with or between inmates in administrative or punitive segregation or special management units is not permitted.
 - L. Inmates in segregation shall have opportunities for visitation unless there are substantial reasons for withholding such privileges. Every effort shall be made to notify approved visitors of any restrictions on visiting. If time allows, the burden of this notification shall be placed on the inmate.
 - M. Inmates in segregation shall have access to legal materials. To ensure legal rights, inmates in segregation shall have access to both personal legal materials and available legal reference materials. Reasonable arrangements shall be made to assist the inmates in meeting court deadlines.
 - N. Inmates in segregation shall have access to reading materials in sufficient quantity. Inmates in segregation shall have an opportunity to borrow reading materials from the facility's library.
 - O. Inmates in Administrative Segregation shall be allowed telephone privileges. Inmates in Punitive Segregation are allowed limited telephone privileges unless phone restrictions have been invoked by the Superintendent/designee or the Correctional Hearing Officer. Restrictions shall not apply to calls related specifically to access to the attorney of record.
 - P. Inmates in segregation shall have access to programs and services that include, but not limited to, the following: educational services, commissary services, library services, social services, counseling services, religious guidance, and recreational programs. Although programs and services cannot be identical to those provided to the general population, there shall be no major differences for reasons other than danger to life, health, or safety. Programs and services may be accomplished through separate scheduling in areas of the facility otherwise used by general population inmates or through the establishment of totally separate programs in other areas of the facility.
 - Q. Inmates in segregation shall have the opportunity to receive treatment from professionals such as social workers, psychologists, counselors, and psychiatrists.

- R. Inmates in segregation shall receive a minimum of one (1) hour of exercise per day outside their cells in an area designated for this purpose, with the opportunity to exercise outdoors one (1) hour per day, five (5) days per week, unless security or safety considerations dictate otherwise.
 - S. No item or activity shall be withheld for the purpose of punishment or for longer than necessary to ensure the safety and well-being of the inmate and others. Whenever an inmate in segregation is deprived of any usually authorized item or activity, a report of the action shall be filed in the inmate's case record and forwarded to the Chief of Security/Chief Correctional Officer as soon as possible. The report shall identify the inmate, item or activity deprived of and the reason(s) for the action.
 - T. The Superintendent, or designee of no lower rank than the Shift Commander, shall have the authority to delegate the placement of an inmate in "strip cell/room" status, pursuant to the following:
 - 1. The inmate shall only be placed in said status when absolutely necessary due to the security needs of the facility, and for no longer than is absolutely necessary.
 - 2. The inmate shall be placed in a cell/room containing no more than as follows, commensurate with the security needs of the incident:
 - a. One (1) set of clothing appropriate to the temperature; and
 - b. One (1) each: mattress, pillow, sheet, pillowcase, and blanket.
 - 3. The appropriately delegated staff person shall be permitted to maintain the inmate in said status no longer than eight (8) hours without the approval of the Superintendent. In the event the inmate is placed and/or maintained in said status by order of the qualified medical/mental health professional, no such approval is needed, but the Superintendent is to be notified.
 - 4. The Superintendent shall authorize, in writing, the continued placement of an inmate in said status for periods longer than eight (8) but less than seventy-two (72) hours. The Superintendent shall notify the DCR Director of Security Services if the inmate is to be maintained in said status for longer than seventy-two (72) hours.
- VIII. An Administrative Segregation status inmate may remain housed under a program of appropriate management in the facility where he/she was placed in Administrative Segregation status for up to six (6) months prior to the need for transfer. However, if the Superintendent believes the inmate in question should be transferred to an appropriate facility for placement, he/she shall utilize the following procedures anytime it becomes necessary to do so.
- A. Long-term Administrative Segregation male inmates (serving time in a prison facility) shall be transferred to Mount Olive Correctional Center and Jail (MOCC&J) for appropriate housing, and long-term Administrative Segregation. Female inmates

- (serving time in a prison facility) shall be transferred to Lakin Correctional Center and Jail (LCC&J) for appropriate housing and long-term Administrative Segregation. The MOCC&J Administrative Segregation Committee will conduct a review of all relevant information within five (5) business days of the transfer to determine placement in the “Quality of Life Program” or general population. The LCC&J Administrative Segregation Committee will conduct a review of all relevant information within five (5) business days of the transfer to determine the need for continued placement in Administrative Segregation.
- B. The MOCC&J/LCC&J Superintendent will review the recommendation of the Administrative Segregation Committee and, if necessary, attempt to resolve any differences with the Superintendent of the transferring facility. Any conflicting recommendations will be resolved by the Deputy Commissioner.
- C. Long-term Administrative Segregation inmates (serving time in a jail and unable to be transferred to a prison facility) may be transferred to another jail and housed in Administrative Segregation under the highest security level possible.
- D. All male inmates under a death sentence from another jurisdiction shall be housed in Administrative Segregation at MOCC&J. All female inmates under a death sentence from another jurisdiction shall be housed in Administrative Segregation at LCC&J.
- IX. All documents pertaining to an inmate’s Administration Segregation status shall be uploaded to the appropriate file in the Offender Information System (OIS).
- X. Special Instructions Concerning Federal Detainees**
- A. Federal detainees include individuals charged with Federal offenses and detained while awaiting trial, individuals who have been sentenced and are awaiting designation and transport to a Bureau of Prisons (BOP) facility, and individuals who are awaiting a hearing on their immigration status or deportation.
- B. The Superintendent shall ensure the immediate notification of the concerned Chief Deputy U.S. Marshal, or his or her designee, when a member of a vulnerable population is placed in restrictive housing or their restrictive housing status changes.
- C. For the purposes of this provision, “restrictive housing” means any type of detention that involves all of the following three (3) basic elements:
1. Removal from the general population, whether voluntary or involuntary;
 2. Placement in a locked room or cell, whether alone or with another detainee; and
 3. Inability to leave the room or cell for the vast majority of the day, typically twenty-two (22) hours or more.

- D. For the purposes of this provision, “vulnerable population” means individuals with serious mental illness.
- E. The Superintendent or designee shall also provide reports to the U.S. Marshal Service (USMS) on a monthly basis listing all USMS detainees who were detained in restrictive housing, and the reasons for their assignment to restrictive housing. The report shall be submitted to the Chief Deputy U.S. Marshal, or his or her designee, no later than the tenth (10th) day of each month in a standard format established by the USMS.

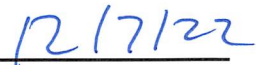
ATTACHMENT(S):

- #1 Notice of Assignment
- #2 Administrative Segregation Initial Hearing Form (2 pages)
- #3 Administrative Segregation Initial Hearing Recommendation
- #4 Superintendent’s Review and Decision
- #5 Appeal of Administrative Segregation
- #6 Chronological Segregation Log

APPROVED SIGNATURE:



Brad Douglas, Acting Commissioner



Date

NOTICE OF ASSIGNMENT

INMATE'S NAME _____ OID # _____ DATE _____

It has been determined that reasons exist for your removal from _____ and placement in _____ and administratively assign you to Detention Custody until such time you appear before the Administrative Segregation Committee for a determination on this change in custody status.

By this notice you have received the required forty-eight (48) hours notice of your appearance before the Committee, and you may request a seven (7) day continuance (excluding weekends and holidays) in order to prepare for your hearing. If the Committee Chairperson does not receive a written request for a continuance within forty-eight (48) hours after this notice is served on you, your appearance before the Committee will take place within seventy-two (72) hours of your placement in Detention Custody. This period may be extended by approval of the Committee Chairperson. You will be notified in writing of any extensions and the reasons thereof. If you so wish, you may have an inmate representative of your choice. It is your responsibility to find a representative. You are to notify the Committee Chairman of your desired representative within forty-eight (48) hours after this notice is served.

You are placed in Detention Custody because there is reason to believe that:

- Your life is in danger if you continue to live in the general population, explain:

- To prevent escapes, reasons exist to believe you are an escape risk, explain:

- Available information indicates that you are dangerous to the safe and secure operation of the facility, explain:

- A criminal investigation is pending in your case, explain:

- Other, specify: _____

DATE AND TIME OF PLACEMENT IN DETENTION CUSTODY: _____

I, _____, do hereby acknowledge that I have read or have had this Notice of Assignment explained to me and do advise that I have received a copy of this notice.

Signature of Inmate OID # Date

NOTICE SERVED BY: _____
Signature of Serving Employee Date Time

ADMINISTRATIVE SEGREGATION INITIAL HEARING FORM

Date of Hearing: _____

Inmate's Name: _____

OID #: _____

Custody at Time of Review: _____ **Punitive Segregation** _____ **Detention**

Nature of Disciplinary Action/Reason Placed in Detention:

Date Placed in Current Custody: _____

Number of Disciplinary Reports since incarcerated by DCR:

Class I: _____

Class II: _____

Class III: _____

Date/Nature of Last Disciplinary Report: _____

Parole Eligibility Date: _____ **Minimum Discharge Date:** _____

Felonies Committed While in the custody of DCR (include dates and locations):

Psychological Evaluation (Most Recent):

Offered: _____ **Refused:** _____ **Completed (Date):** _____ **Score:** _____

ADMINISTRATIVE SEGREGATION INITIAL HEARING FORM

Inmate's Name: _____

OID #: _____

Comments:

Signature of Staff Member: _____

Date: _____

Chairperson Summary:

Chairperson Signature: _____

Date: _____

ADMINISTRATIVE SEGREGATION INITIAL HEARING RECOMMENDATION

NAME: _____ OID#: _____ DATE: _____

The Administrative Segregation Committee has met and is recommending that you:

_____ Remain in your present custody of _____.
_____ Receive a change in your custody from _____ to _____.

This recommendation was made for the following reasons:

- _____ Your institutional record: _____
- _____ Your record of assaultive/violent behavior
- _____ Your statements to the Committee
- _____ The nature of the write-ups for which you were placed in segregation.
- _____ Your behavior while in segregation, if applicable: _____.
- _____ The results of your psychological evaluation.
- _____ Your escape history.
- _____ Your need to live in a more secure environment.
- _____ Your detainer to a death penalty and/or a life sentence.
- _____ Your commission of a felony/felonies while in the custody of, while escaping from, or on escape status from the Division of Corrections and Rehabilitation.
- _____ Other/Explain: _____
- _____
- _____
- _____

Be advised that the above recommendations and all information regarding your Administrative Segregation Initial Hearing will be forwarded to the Superintendent for review and final disposition, and you will be notified by the Superintendent in writing of his/her final decision within seven (7) days from the date listed above.

Committee Signatures: _____

Inmate's Signature: _____

cc: Inmate

WV DIVISION OF CORRECTIONS AND REHABILITATION

Superintendent's Review and Decision of Administrative Segregation Committee's

Initial Hearing Recommendations

TO: _____ OID # _____

FROM: Superintendent _____

DATE: _____

RE: ADMINISTRATIVE SEGREGATION HEARING/REVIEW DECISION

On _____, you were reviewed by the Administrative Segregation Committee concerning your current status.

At that time, the Committee recommended that you:

_____ Remain in your current status of _____

_____ Receive a change in your status from _____ to _____

I have reviewed the recommendation and have decided to:

_____ Uphold the recommendation of the Committee.

_____ Overrule the recommendation of the Committee, and have determined that you are to:

YOU HAVE THE RIGHT TO APPEAL THIS DECISION TO THE COMMISSIONER.

WV DIVISION OF CORRECTIONS AND REHABILITATION
INMATE'S APPEAL OF ADMINISTRATIVE SEGREGATION

I, _____, do hereby appeal my placement in
(Name of Inmate & OID Number)

Administrative Segregation on _____
(Date of Placement in Administrative Segregation)

at _____ for the following reason(s):
(Name of Facility)

Signature of Inmate

Date

- Approve Inmate's Appeal/Release from Administrative Segregation
- Deny Inmate's Appeal/Remain in Administrative Segregation

Commissioner/Designee

cc: Superintendent
Inmate

