GENERAL DISTRIBUTION

WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION

NUMBER: 326.03

EFFECTIVE DATE: 15 October 2025

SUBJECT: PROTECTIVE CUSTODY

POLICY DIRECTIVE

PURPOSE:

To provide policy ensuring appropriate guidelines and procedures for inmates requesting or requiring protection from the general population.

REFERENCE:

ACA Expected Practices 5-ACI-4A-01 through 05, 07 through 08, 10 through 25, and 27; 5-ALDF-2E-01 through 03, 05 through 06, 09 through 22, and 24; and National Commission on Correctional Health Care §§P-G-02 and J-G-02.

RESPONSIBILITY:

Superintendents are 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 326.03, dated 21 December 2022.

APPLICABILITY:

All adult facilities within the Division of Corrections and Rehabilitation (DCR). This Policy is available for general distribution.

DEFINITIONS:

Protective Custody: Form of separation from the general population for inmates requesting or requiring protection from other inmates for reasons of health or safety.

POLICY:

I. Inmates requesting or requiring protection from the general population may be placed in Protective Custody.

A. Inmates in Protective Custody should be allowed to participate in as many as possible of the programs afforded the general population, providing such participation does not threaten institutional security.

B. Each Protective Custody case should be reviewed frequently with the goal of terminating separate housing assignment as soon as possible.

C. Protective Custody is not a punitive measure and should only be used for short periods of time, except when an inmate needs long-term protective custody and the facts are well documented.

II. Facilities shall establish appropriate procedures that will address the issue of providing for the safety/security for members of the inmate population. This will be accomplished through an appropriate interview, screening and evaluation of an inmate's situation in order to determine whether an inmate should be placed in Protective Custody.

A. An inmate is placed in Protective Custody only when there is documentation that protective custody is warranted and no reasonable alternatives exist. Protective Custody may be authorized for the following reasons:

1. Court-ordered.

2. Voluntary placement (self-commitment).

3. Involuntary placement (administrative action).

B. A memorandum detailing the reasons for Protective Custody will be prepared and forwarded to the Chief of Security/Chief Correctional Officer. A copy will be given to the inmate, provided this does not compromise facility safety.

III. When an inmate believes that he/she is in need of placement in Protective Custody, he/she will complete a Protective Custody Information Sheet (**Attachment #1**). Staff will appropriately investigate the asserted safety needs of each inmate requesting Protective Custody to ensure the needs are valid and that there are no reasonable alternatives to Protective Custody.

A. An inmate who no longer fears for his/her safety and desires to return to general population may indicate this by completing a Waiver/Release from Protective Custody (**Attachment #2**).

B. If the inmate desires release to the general population and staff have reasonable belief that to do so would result in harm to the inmate or others, the inmate may be held involuntarily in this status. This involuntary holding of an inmate in Protective Custody will be subject to a due process hearing as provided in Section IV below.

IV. An inmate, determined by staff to require Protective Custody, who denies such need, may be so confined involuntarily. An inmate in this category will be provided with an initial hearing conducted by the facility's standing Classification Committee, or a specially constituted committee formally established by the Superintendent for this purpose. The Committee will utilize the following procedures.

A. An initial 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 placed in involuntary Protective Custody. The inmate will be provided a Notice of Initial Hearing (**Attachment #3**).

B. This time period may be extended by approval of the 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 Initial Hearing.

C. The Chief of Security/Chief Correctional Officer may designate a qualified staff person to review and prepare information for presentation at the Initial Involuntary Protective Custody 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.

D. 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.

E. The inmate may waive, in writing, his/her personal appearance before the Committee. If the inmate does not appear, a review will still be conducted with the Committee noting the inmate's absence.

F. The inmate's appearance before the Committee will be documented on the Involuntary Protective Custody Initial Hearing Form (**Attachment #4**). All hearings will be magnetically or digitally recorded, catalogued, and stored.

G. The inmate shall be permitted to be an active participant in the hearing and receive assistance from an inmate representative. The representative cannot currently have a restricted classification status (e.g., Disciplinary Segregation, Administrative Segregation). The inmate will not be allowed to have an attorney present.

H. The inmate shall be afforded the opportunity to call and cross-examine witnesses at the Initial Involuntary Protective Custody 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.

I. The Committee will recommend to the Superintendent that the inmate be placed in Protective Custody or returned to his/her previous status. The Committee will base its recommendation upon the preponderance of available information or evidence.

J. The inmate will be notified in person of the Committee's recommendation immediately upon the conclusion of the hearing. The inmate and the Superintendent will both be notified, in writing (**Attachment #5**), of the Committee's recommendation within twenty-four (24) hours, excluding weekends and holidays, of the conclusion of the hearing.

K. The Superintendent will review the Committee's recommendation within three (3) business days (excluding weekends and holidays) and inform the inmate whether he/she will uphold the recommendation or overrule the recommendation of the Committee (**Attachment #6**).

L. An inmate may appeal his/her involuntary placement in Protective Custody to the Commissioner. The Commissioner may assign a designee to respond to an inmate's appeal. The appeal must be filed in writing (**Attachment #7**) within five (5) days of receipt of the Superintendent's decision.

V. The following procedures apply to Protective Custody inmates housed in segregation cells for their own safety.

A. **Inmates in segregation are confined to a cell for periods of time less then twenty-two (22) hours per day.** Facilities will develop out-of-cell schedules according to their available resources, including structured and unstructured activities.

B. When an inmate is transferred to a segregation cell, health care staff will be informed immediately and provide a screening and review.

1. Unless medical attention is needed more frequently, a qualified health care professional will conduct daily screening rounds with each inmate in segregation. This visit ensures that inmates in segregation have access to the health care system. The presence of a health care provider in segregation housing is announced and documented by signature on the chronological segregation log.

2. Inmates in segregation who request sick call are evaluated by a health care provider who determines the appropriate setting for further medical attention in consultation with security staff.

C. A qualified mental health professional personally interviews and prepares a written report on any inmate remaining in segregation for more than thirty (30) days. If confinement continues beyond thirty (30) days, a mental health assessment by a qualified mental health professional is made at least every thirty (30) days for inmates who have an identified mental health need and every three (3) months for all other inmates; more frequently if prescribed by the mental health professional.

D. All segregation inmates are personally observed by a staff twice per hour, but no more than forty (40) minutes apart, on an irregular schedule. Inmates who are violent or mentally disordered or who demonstrate unusual or bizarre behavior receive more frequent observation; suicidal inmates are under continuing or continuous observation. Observation will be documented in the unit log.

E. Inmates in segregation receive daily visits from the senior correctional supervisor in charge, as documented by signature on the chronological segregation log. Inmates also receive visits from members of the program staff upon request.

F. Staff operating segregation units maintain a permanent chronological log (**Attachment #8**) for each inmate admitted to segregation. Any unusual or out of the ordinary incidents will be documented in an incident report.

G. Facility operational procedures govern the selection criteria, supervision, and rotation of staff who work directly with inmates in segregation housing on a regular and daily basis in accordance with the following.

1. Employee performance appraisals include an evaluation of the on-the-job performance of the staff who work with inmates in segregation housing.

2. Administrative procedures for the prompt removal of ineffective staff are followed.

3. Correctional officers assigned to work in segregation housing should have successfully completed their probationary period.

4. The need for rotation should be based on the intensity of the assignment.

H. Segregation units provide living conditions that approximate those of the general inmate population; all exceptions are clearly documented. Segregation cells/rooms permit the inmates assigned to them to converse with and be observed by staff members. Total isolation is not an acceptable practice.

I. All cells/rooms in segregation housing in **PRISONS** provide a minimum of eighty (80) square feet and provide thirty-five (35) square feet of unencumbered space for the first occupant and twenty-five (25) square feet of unencumbered space for each additional occupant.

J. All cells/rooms in segregation housing in **JAILS** provide a minimum of seventy (70) square feet and provide thirty-five (35) square feet of unencumbered space for the first occupant and twenty-five (25) square feet of unencumbered space for each additional occupant.

K. The general conditions of confinement for all inmates in segregation require the following. Any exceptions are permitted only when found necessary by the senior officer on duty, are justified in writing, recorded in the unit log and the inmate's case record and forwarded to the Chief of Security/Chief Correctional Officer.

1. All inmates in segregation are 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.

    a. Basic personal items include, but are not limited to, personal hygiene items as well as items such as eyeglasses and writing materials.

    b. If a supervisor determines that there is imminent danger that an inmate will destroy an item or use it to induce self-injury, the inmate may be deprived of the item. In such cases, every effort will be made to supply a substitute for the item or to permit the inmate to use the item under the supervision of staff.

2. Inmates in segregation have the opportunity to shave and shower at least three (3) times per week.

3. Inmates in segregation receive laundry, barbering, and hair care services and are issued and exchange clothing, bedding, and linens on the same basis as general population inmates.

4. 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 is on an individual basis, is based on health or safety considerations only, meets basic nutritional requirements, and occurs with the written approval of the Superintendent or designee and the responsible health authority or designee. The substitution period shall not exceed seven (7) days.

5. Inmates in segregation can write and receive letters on the same basis as general population inmates.

6. Inmates in segregation have opportunities for visitation unless there are substantial reasons for withholding such privileges.

7. Inmates in segregation have access to legal materials and reading materials.

8. Inmates in segregation receive a minimum of one (1) hour of exercise per day outside their cells, five (5) days per week, unless security or safety considerations dictate otherwise. The opportunity to exercise is in an area designated for this purpose, with opportunities to exercise outdoors, weather permitting. Outdoor recreation may be provided in an enclosed area that provides fresh air and natural lighting.

9. Inmates in segregation for Protective Custody are allowed telephone privileges.

10. Inmates in segregation for Protective Custody have access to programs and services that include, but are not limited to, 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 by alternate formats or environments.

L. The facility's standing Classification Committee, or the specially constituted committee established by the Superintendent, will review in person the status of all inmates in Protective Custody, whether voluntary or involuntary, at least every seven (7) days for the first two (2) months and every thirty (30) days thereafter.

1. The Committee will consider any alternatives available and what, if any, assistance can be provided the inmate to facilitate the inmate returning to the general population. The goal shall be to terminate segregation housing as soon as possible.

2. Reviews will consider whether the reasons for placement in Protective Custody still exist.

3. An inmate may attend his/her review hearings and will be afforded the opportunity to present information to the Committee, or the inmate may waive his/her appearance at the hearing. Any such waiver will be documented in writing.

4. The Committee will provide the inmate with a written decision (**Attachment #9**) stating the reasons and basis for the decision to retain the inmate in Protective Custody or to release the inmate from that status.

M. All cases where the inmate has been held in Protective Custody longer than ninety (90) days will be forwarded to the Superintendent for review and action.

N. The Committee or the Superintendent will authorize release from Protective Custody. Release may be authorized when one or more of the following conditions exist.

1. Information and/or evidence developed during the period of confinement indicate conditions have changed and the inmate is no longer in need of Protective Custody.

2. Another facility has been identified where there is a reasonable expectation that the inmate will be able to function in the general population.

VI. All documents pertaining to an inmate's Protective Custody status will be uploaded to the appropriate file in the Offender Information System (OIS).

ATTACHMENT(S):

#1 Protective Custody Information Sheet

#2 Waiver/Release from Protective Custody

#3 Involuntary Protective Custody Notice of Hearing

#4 Involuntary Protective Custody Initial Hearing Form

#5 Involuntary Protective Custody Initial Hearing Recommendation

#6 Superintendent's Review and Decision

#7 Appeal of Involuntary Protective Custody

#8 Chronological Log

#9 Protective Custody Review Form

APPROVED SIGNATURE: _____ 09/17/2025

David L. Kelly, Commissioner **Date**

PROTECTIVE CUSTODY INFORMATION SHEET

INMATE'S NAME:_____ **OID #** _____ **DATE:** _____

I, _____ **do hereby indicate my need for placement in Protective Custody (self-commitment) due to:**

Name(s) of Inmate(s):

_____

_____

_____

_____

Specific details concerning why Protective Custody is being requested:

_____

_____

_____

_____

_____

(Should additional space be needed, attach extra pages.)

_____
Inmate's Signature

_____
Signature of Staff Witness

_____
Signature of Staff Witness

WAIVER/RELEASE FROM PROTECTIVE CUSTODY

I, _____ do not fear for my
(Name of Inmate & OID Number)

safety at _____ and request to be
(Name of Facility)

returned to living quarters among general population.

_____ _____
Inmate's Signature **Date/Time**

_____
Signature of Staff Witness

_____
Signature of Staff Witness

INVOLUNTARY PROTECTIVE CUSTODY
NOTICE OF INITIAL HEARING

INMATE'S NAME _____ **OID #** _____ **DATE** _____

It has been determined that reasons exist for your involuntary removal from _____ and administratively assign you to Protective Custody.

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 receiving this Notice. 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 Legal 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 being administratively placed in Protective Custody for your own safety.

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

_____

Inmate's Signature **OID #** **Date**

NOTICE SERVED BY: _____

Signature of Serving Employee **Date** **Time**

INVOLUNTARY PROTECTIVE CUSTODY
INITIAL HEARING FORM

Date of Hearing:_____

Inmate's Name:_____ **OID #:**_____

Custody at Time of Review: _____

Reason for Involuntary Assignment to Protective Custody:

_____

_____

_____

_____

_____

Date Placed in Protective Custody:_____

Signature of Staff Member:_____ **Date:**_____

Chairperson Summary:

_____

_____

_____

_____

_____

Chairperson Signature:_____ **Date:**_____

INVOLUNTARY PROTECTIVE CUSTODY
INITIAL HEARING RECOMMENDATION

INMATE'S NAME:_____ **OID#:**_____ **DATE:**_____

The Protective Custody Classification 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:

_____

_____

_____

_____

_____

_____

_____

_____

Be advised that the above recommendations and all information regarding your Protective Custody 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

SUPERINTENDENT'S REVIEW OF PROTECTIVE CUSTODY CLASSIFICATION COMMITTEE'S INITIAL HEARING RECOMMENDATION

TO: _____ OID #_____

FROM: Superintendent _____

DATE: _____

RE: PROTECTIVE CUSTODY HEARING/REVIEW DECISION

On _____, you were reviewed by the Protective Custody Classification 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.

INMATE'S APPEAL OF INVOLUNTARY PROTECTIVE CUSTODY

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

Protective Custody on _____ **at** _____
(Date Placed in Protective Custody) **(Name of Facility)**

for the following reason(s):

_____

_____

_____

_____

_____
Signature of Inmate **Date**

☐ **Approve Inmate's Appeal/Release from Protective Custody**

☐ **Deny Inmate's Appeal/Remain on Protective Custody**

_____
Commissioner/Designee **Date**

cc: Superintendent
Inmate

Protective Custody - Chronological Segregation Log

MONTH: YEAR:

INMATE NAME:		OID#:	STATUS:
DATE IN:	DATE OUT:	SPECIAL NEEDS:	
NOTES:			

Date	Meals B	L	D	Exercise Times Start	Finish	Hair Care	Phone	Visit	Shave/ Shower	Laundry	Mail	Reading Material	State Shop Exchange	Qualified Health Care Professional Signature	Senior Correctional Supervisor Signature
1															
2															
3															
4															
5															
6															
7															
8															
9															
10															
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28															
29															
30															
31															

Legend: NA = non-applicable; R = refused; RR = requested to return to cell before scheduled end of exercise; **Staff Member's Initials** = Activity Completed

PROTECTIVE CUSTODY REVIEW FORM

This form is to be utilized for documenting reviews of inmates in Protective Custody, whether voluntary or involuntary, at least every 7 days for the first 2 months and every 30 days thereafter.

INMATE'S NAME:_____ **OID#:**_____

On _____, you were seen by the Committee to review your continuation in Protective Custody. The Committee recommends that you:_____

_____

This recommendation is made for the following reasons:

_____ There is insufficient verifiable information indicating a need for Protective Custody.

_____ Sufficient verifiable information exists which indicates your safety may be threatened and you need to be kept separate from the inmate(s) named:_____

_____

_____ Sufficient verifiable information exists which indicates that your safety has been threatened, and you need to be transferred to another facility.

_____ Other:_____

Committee Signatures: _____

_____

_____

Inmate's Signature: _____

********This below section is to be completed for inmates held in Protective Custody longer than 90 days.********

Be advised this recommendation is being forwarded to the Superintendent for a final decision.

I have reviewed the circumstances regarding your case and have decided to:

_____ Uphold the Committee's recommendation.

_____ Overrule the Committee's recommendation and have determined that you are to:_____

_____

Superintendent's Signature: _____ **Date:**_____

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

cc: Inmate