

GENERAL DISTRIBUTION

**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

NUMBER: 326.03

EFFECTIVE DATE: 21 December 2022

**SUBJECT: SPECIAL MANAGEMENT
STATUS**

POLICY DIRECTIVE

PURPOSE:

To provide guidelines and procedures for inmates who are verified to be in need of placement in Special Management Status.

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 §§P-G-02 and J-G-02.

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 326.03, 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.

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. Administrative Segregation is governed by DCR Policy Directive 326.00.

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.

POLICY:

- I. Special Management Status is a condition of confinement for inmates requesting or requiring special monitoring or preventive measures that could entail separation from the general population. Special Management is not a punitive measure and is used only when no reasonable, safe alternative is available.
- II. Facilities will establish appropriate procedures that will address the issue of providing for the safety/security for members of the inmate population. This shall 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 Special Management Status.
- III. An inmate shall be placed in Special Management Status only when there is documentation that such status is warranted, and no reasonable alternatives are available.
 - A. An inmate may be placed in Special Management Status for the following reasons:
 1. Court order issued at the time of his/her commitment to the Division of Corrections and Rehabilitation.
 2. Voluntary placement (self-commitment). When an inmate believes that he/she is in need of placement in Special Management Status, he/she shall complete a Special Management Status Information Sheet (**Attachment #1**). Staff will appropriately investigate the asserted safety needs of each inmate requesting Special Management Status. This will ensure that those safety needs are valid and that there are no reasonable alternatives to Special Management Status.
 3. Involuntary placement (administrative action).
 - B. A memorandum detailing the reasons for Special Management Status shall 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.
 - C. Any inmate placed in Special Management Status shall receive an appropriate orientation concerning his/her status and the conditions of confinement.
- IV. An inmate, determined by staff to require Special Management Status, who denies such need, may be so confined involuntarily. An inmate in this category will be provided with an initial hearing that utilizes 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 on Special Management Status. The inmate will be provided a Notice of the Hearing (**Attachment #2**).
- B. This time period may be extended by approval of the Special Management Classification 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 Hearing.
- C. The Special Management Classification Committee may be the facility's standing Classification Committee, or it may be a specially constituted committee established by the Superintendent for this specific purpose. If the latter, the committee should be formally established rather than ad hoc.
- D. The Chief of Security/Chief Correctional Officer may designate a qualified staff person to review and prepare information for presentation at the Initial Special Management Status 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.
- E. 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.
- F. The inmate may waive, in writing, his/her personal appearance before the Special Management Classification Committee. If the inmate does not appear, a review will still be conducted with the Special Management Classification Committee noting the inmate's absence.
- G. The inmate's appearance before the Special Management Classification Committee will be documented on the Special Management Status Initial Hearing Form (**Attachment #3**). All Special Management Status hearings will be magnetically recorded, catalogued and stored.
- H. 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., Punitive Segregation, Administrative Segregation). The inmate will not be allowed to have an attorney present.
- I. The inmate shall be afforded the opportunity to call and cross-examine witnesses at the Initial Special Management Status 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.

- J. The Special Management Classification Committee shall recommend to the Superintendent that the inmate be placed on Special Management Status or returned to their previous status (**Attachment #4**). The Special Management Classification Committee will base its recommendation upon the preponderance of available information or evidence.
- K. The inmate shall be notified in person of the Special Management Classification Committee's recommendation immediately upon the conclusion of the hearing. The inmate and the Superintendent shall both be notified, in writing, of the Special Management Classification Committee's recommendation within twenty-four (24) hours, excluding weekends and holidays, of the conclusion of the hearing.
- L. The Superintendent shall review the Special Management Classification Committee's recommendation and inform the inmate whether he/she will uphold the recommendation or overrule the recommendation of the Special Management Classification Committee (**Attachment #5**).
- M. An inmate may appeal his/her involuntary placement in Special Management Status to the Commissioner. The Commissioner may assign a designee to respond to an inmate's appeal. The appeal must be filed in writing (**Attachment #6**) within five (5) days of receipt of the Superintendent's decision.
- V. Inmates on Special Management Status for his/her own safety, or for whom the staff determines placement or continuation in Special Management Status for the inmate's safety is necessary, may be housed in a designated Special Management Unit. The following conditions of confinement will apply to all inmates in Special Management Units:
 - 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 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 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 conduct a screening and weekly rounds on inmates in Special Management Units.

- E. Staff who work directly with inmates in Special Management Units on a regular and daily basis shall be subject to specific criteria, supervision, and rotation in and out of the unit.
- F. Correctional staff shall maintain a permanent chronological log for each inmate (**Attachment #7**).
- G. All inmates 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 shall have the opportunity to shave and shower at least three (3) times per week.
- I. Inmates 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 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 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 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 shall have access to legal materials. To ensure legal rights, inmates 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 shall have access to reading materials in sufficient quantity. Inmates shall have an opportunity to borrow reading materials from the facility's library.
- O. Inmates shall be allowed telephone privileges.
- P. Inmates 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 shall have the opportunity to receive treatment from professionals such as social workers, psychologists, counselors, and psychiatrists.
- R. Inmates 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 consideration 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 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.

- VI. The Special Management Classification Committee will review in person the status of all inmates on Special Management Status at least every seven (7) days for the first two (2) months and every thirty (30) days thereafter.
- A. The Special Management Classification 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 of the Special Management program shall be to return as many Special Management Status inmates as possible to the general population.
- B. Special Management Classification Committee reviews will consider the original reason for placing an inmate in Special Management Status and his/her behavior during such placement.
- C. Each review will include an evaluation of the following information:
1. past criminal record;
 2. past incarcerations including disciplinary records;
 3. current disciplinary record, including criminal activity while incarcerated;
 4. psychological stability;
 5. attitude toward authority;
 6. facility work and program participation;
 7. willingness and ability to live with other inmates;
 8. history of violent reactions to stressful situations;
 9. habitual conduct/language of a type expected to provide/instigate stressful/violent situations;
 10. the possibility of release to general population; and
 11. the possibility of transfer to another facility of appropriate security.
- D. 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.
- E. The Special Management Classification Committee will provide the inmate with a written decision stating the reasons and basis for the decision to retain the inmate in Special Management Status or to release the inmate from that status, as well as a summary of the information presented to and considered by the committee.

- F. All cases where the inmate has been held in Special Management Status longer than ninety (90) days will be forwarded to the Superintendent for review and action.
 - G. The Special Management Classification Committee or the Superintendent will authorize release from Special Management Status. 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 no longer presents a threat to himself or others.
 - 2. The inmate is found guilty of a serious misconduct by a Correctional Hearing Officer and is transferred to a Punitive Segregation Unit.
 - 3. Another facility has been identified where there is a reasonable expectation that the inmate will be able to function in the general population.
 - H. 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 Special Management Consideration (**Attachment #8**). If an inmate desires release to the general population and the 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.
 - 1. This involuntary holding of an inmate in Special Management Status will be subject to a due process hearing as if the matter were a new determination of the need for involuntary Special Management Status.
 - 2. If the Special Management Classification Committee determines that the inmate shall remain in Special Management Status, the inmate may appeal the decision to the Superintendent.
- VII. All documents pertaining to an inmate's Special Management Status shall be uploaded to the appropriate file in the Offender Information System (OIS).
- VIII. 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 Special Management Status Information Sheet
- #2 Special Management Notice of Hearing
- #3 Special Management Status Initial Hearing Form
- #4 Special Management Status Initial Hearing Recommendation
- #5 Superintendent’s Review and Decision
- #6 Appeal of Special Management Status
- #7 Chronological Log
- #8 Waiver/Release from Special Management Consideration

APPROVED SIGNATURE:



Brad Douglas, Acting Commissioner



Date

**SPECIAL MANAGEMENT STATUS
INFORMATION SHEET**

NAME: _____ **DATE:** _____

OID NUMBER: _____

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

Name(s) of Inmate(s)

Specific details concerning why Special Management Status is being requested:

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

Inmate's Signature

Staff Witness

Staff Witness

**SPECIAL MANAGEMENT STATUS
INITIAL HEARING FORM**

Date of Hearing: _____

Inmate's Name: _____

OID #: _____

Custody at Time of Review: _____

Reason for Involuntary Assignment to Special Management Status:

Date Placed in Special Management: _____

Psychological Evaluation (Most Recent):

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

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

Chairperson Summary:

Chairperson Signature: _____ **Date:** _____

**SPECIAL MANAGEMENT STATUS
INITIAL HEARING RECOMMENDATION**

NAME: _____ OID#: _____ DATE: _____

The Special Management 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 Special Management Status 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 Special Management Classification Committee's
Initial Hearing Recommendations**

TO: _____ OID # _____

FROM: Superintendent _____

DATE: _____

RE: SPECIAL MANAGEMENT STATUS HEARING/REVIEW DECISION

On _____, you were reviewed by the Special Management 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.

WV DIVISION OF CORRECTIONS AND REHABILITATION
INMATE'S APPEAL OF SPECIAL MANAGEMENT STATUS

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

Special Management Status on _____
(Date of Placement on Special Management Status)

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

Signature of Inmate

Date

- Approve Inmate's Appeal/Release from Special Management Status
- Deny Inmate's Appeal/Remain on Special Management Status

Commissioner/Designee

cc: Superintendent
Inmate

WV DIVISION OF CORRECTIONS AND REHABILITATION

Waiver/Release from Special Management Consideration

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.

Signature of Inmate/OID Number

Date/Time

Signature of Staff Witness

Signature of Staff Witness