

Custodial Operations Policy and Procedures

3.2 Protective custody

Policy summary

Corrective Services NSW (CSNSW) is responsible for the care and safety of offenders in custody. A Governor may direct an inmate to be placed in protective custody if there exists a threat to the personal safety of the inmate that cannot be managed any other way. The duration of the protection may vary depending on the identified threat.

Protective custody directions must be regularly reviewed in accordance with the *Crimes (Administration of Sentences) Act 1999*.

Management of Public Correctional Centres Service Specifications

Service specification	Safety and security
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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 Justice Health and Forensic Mental Health Network (JH&FMHN), contractors, subcontractors, and visitors.

For Security & Intelligence (S&I) staff, this policy must be read in conjunction with S&I Local Operating Procedures (LOPs).

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1 Protective custody general

1.1 Policy

Protective custody should only be considered for inmates that have a localised, evidenced and recent threat to their personal safety. Protection should only be used if there is no other option to appropriately manage the inmate in that Correctional Centre. Protective custody should only be considered a short term option while other suitable housing options are considered.

Governors or their delegate (see below) must ensure with each new reception that the inmate is able to associate with other inmates in normal discipline. If the opinion is that placement in normal discipline constitutes or is likely to constitute a threat to the personal safety of the inmate, consideration should be given to:

- transferring the inmate to another centre
- placing an association alert on OIMS
- separation under 78a
- Special Management Area Placement (SMAP).

as an initial means of managing the risk.

Where the risk cannot be managed by any of the above means, an inmate may require protective custody.

1.2 Delegation

The Governor and the MOS have the authority to place an inmate under a protective custody direction for a period of up to 14 days. A Functional Manager/Principal also has this authority, but only in the absence of both the Governor and MOS.

1.3 Criteria for protective custody

An inmate can be placed in protective custody at the Governor's direction either:

- without the inmate requesting protection; or
- after the inmate requests protective custody in writing to the Commissioner.

In either case, the Governor must be of the opinion that the association of the inmate with other inmates constitutes, or is likely to constitute, a threat to the personal safety of the inmate as per Section 11(1) of the *Crimes (Administration of Sentences) Act 1999*.

1.4 Effect of protective custody

An inmate who is subject to a protective custody direction must be detained in isolation from other inmates.

The Governor (or delegate) must ensure that an inmate who is held in protective 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 under section 12 of the *Crimes (Administration of Sentences) Act 1999*, and other than those deemed necessarily incidental to the holding of the inmate in protective custody.

1.5 Effect of the inmate’s request for protective custody

An inmate’s request for protective custody is not automatically granted: the Governor must establish that the association of the inmate with other inmates constitutes, or is likely to constitute, a threat to the personal safety of the inmate, and the risk cannot be managed any other way.

However, if the inmate has requested protective custody, subsequent reviews of the direction may be undertaken by the General Manager, Statewide Operations beyond six months, and the Commissioner is not required to review the direction (see table at 1.7 of this policy).

Note that:

- if protective custody is initially at the Governor’s direction, but subsequently the inmate requests protection; or
- if protective custody is initially at the inmate’s request, but subsequently becomes at the Governor’s direction.

then the order must be revoked and a new order made to reflect the change of criteria, and the appropriate review process must be followed.

1.6 Time periods affecting protective custody

When the Governor of a correctional centre makes a determination to place an inmate in protective custody, this direction remains in force until it is revoked.

A protective custody direction must be reviewed at set times as per section 16 of the *Crimes (Administration of Sentences) Act 1999*.

Direction	Delegated Officer	Decision	Annexure	Time frame to be reviewed	Duration in force
Initial Direction 14 days	Governor or delegate	Direct	<i>Protective Custody Direction/ Review Protective Custody</i>	Within 14 days from the initial <i>Protective Custody Direction</i>	14 days
Review of Initial Direction 3 months	General Manager, Statewide Operations	Revoke, confirm or amend	<i>Review of protective custody direction</i>	Within 7 days from receipt of <i>Review of protective custody direction</i> (3 month direction 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 protective custody direction</i>	Within 7 days from receipt of <i>Review of protective custody</i> , (3-6 months report)	3 months (if not revoked)
Review of 6 months Report 6 month and subsequent 3 month	Commissioner (if at the Governor's direction) OR General Manager, Statewide Operations (if at request of inmate)	Revoke, confirm or amend	<i>Review of protective custody direction</i>	Within 7 days from receipt of <i>Review of protective 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 protected custody (Governors direction) for a total continuous period of more than six months.

1.7 Record keeping for protective custody directions

The *Protective 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 protective custody direction must also be placed in the inmate's Case Management File (CMF).

1.8 Segregation of inmates on a protective custody direction

An inmate who is subject to a current protective custody direction may be placed into segregated custody if their behaviour constitutes a threat to the personal safety of any other person, the security of the correctional centre, or the 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. The area where the protective custody inmate is accommodated during the time they are also subject to a segregated custody direction is determined by the Governor. The procedure to follow is the same as outlined in **COPP section 3.4 Segregation**.

2 Police/court cells

2.1 Policy

Inmates who express concerns about their personal safety in a Police/Court cell and are considered at risk from others must be managed taking into account their concerns until transferred to a correctional centre.

Police/Court cell officers are to note the concerns on the *Inmate Identification & Observation* form under *Immediate temporary management or placement issues* which allows officers to note a one-out cell placement. Officers may also place either a Person of Interest or a Behaviour Alert in OIMS depending on the circumstances. This is to ensure that an inmate's immediate, temporary management or placement concerns are communicated to all staff at the Police/Court cell location, and to reception staff at the correctional centre. This alert automatically deactivates after seven days. Reception staff at the correctional centre may deactivate the alert earlier if required.

3 Inmate concerns for safety

3.1 Reception at the correctional centre

If an inmate on reception has localised, current concerns for their safety, the screening officer or CMU (reception) is to refer it to an authorised officer and make an appropriate notation on the decision taken on the *Initial Case Plan and Security Risk Rating* form.

If the inmate is received after-hours, the senior reception room/senior intake officer is to follow steps 1-3 in procedure [3.2], note in the *Inmate Accommodation Journal* and the *Muster Book* that the inmate is not to be moved or released from their cell until assessed by the screening officer/CMU and refer it to the Governor or an authorised officer at the soonest opportunity.

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 must be referred to the correctional centre's Intelligence Officer and maintained in a secure location. 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 Protective Custody Direction Number XXXXX can be found in [secure location]").

3.2 Procedures for initial direction (14 days) at the request of the inmate

	Procedure	Responsibility
1.	Direct an inmate to complete a request for protective custody in writing to the Commissioner (or delegate).	FM/Authorised officer

	Procedure	Responsibility
2.	Interview the inmate, recording the reason(s) why the inmate requested protective custody. It is desirable that the inmate put their reason(s) in writing, however some inmates may require assistance by staff, or staff may add clarifying notes to the inmate's written request.	FM/Authorised officer
3.	Safely secure the inmate and initiate an assessment of the threat or circumstances relating to the inmate's request using the <i>Assessment tool - Inmate under threat</i> .	Governor/ Authorised officer
4.	If satisfied a threat to the personal safety of the inmate exists and can't be managed otherwise, direct an inmate be placed in protective custody by completing a <i>Protective custody direction</i> .	Governor or delegate
5.	Attach to the <i>Protective custody direction</i> : <ul style="list-style-type: none"> a report that clearly outlines: <ul style="list-style-type: none"> details of the threat/s background or supporting information which led to the belief that a real threat/s exists the inmate's written request to be protected, including their reasons. 	Governor or delegate
6.	Notify JH&FMHN if the decision is to place the inmate in a non-association cell.	Governor
7.	Update the OIMS <i>Care-in-Placement</i> module to record the direction <i>See Figure 1 – OIMS Care in Placement module example below this procedures table.</i>	FM/ Authorised Officer
8.	Place both the direction and the accompanying reports on the inmate's case management file and save to EDRMS.	FM/ Authorised Officer
9.	Regularly review the circumstances or the nature of the threat/s that has led to the issue of the protective custody direction and determine if a 3 month review is required. Where these circumstances have changed and/or the threat/s have been lessened or eliminated, the Governor must take action to revoke the direction and institute a less restrictive management plan.	Governor or delegate

Figure 1 – OIMS Offender Care in Placement module 14 days

Offender Care in Placement				Review				
Direction#	Type*	Description	Status	Effective Date*	Duration*	Description	Review Date	Days
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/02/2018	14D	14 days	12/03/2018	13

3.3 Procedures for 3 month direction (includes 14 days)

The ongoing threat/s must be assessed within 14 days of the commencement of the initial direction and where it is considered that the direction should continue the following procedure should be followed:

	Procedure	Responsibility
1.	Obtain a new written request from the inmate.	FM/Authorised officer
2.	Interview the inmate again and establish a clear understanding of the reason/s for the protective custody.	FM/Authorised officer
3.	<p>Complete a new report which clearly:</p> <ul style="list-style-type: none"> • outlines the details of the threat/s • includes any background/supporting information which led to the belief that a real threat/s exist <p>The <i>Assessment tool - Inmate under threat</i> is utilised to assist with identifying inmates at risk or under threat and in determining their placement (e.g. normal discipline; offender non-association alert; SMAP/Protection) options.</p>	Governor/ Authorised officer
4.	Complete a <i>Review of protective custody direction</i> .	Governor or delegate
5.	Forward (scan/email) the <i>Review of protective custody direction</i> and all appropriate documentation to custodial.corrections@dcj.nsw.gov.au 7 days prior to the expiration of the initial direction.	Governor or delegate
6.	Review and either confirm, revoke or amend the protective custody direction on the <i>Review of protective custody direction</i> .	GM Statewide Operations
7.	Ensure a copy of the direction and any accompanying papers are filed along with the initial direction at their office and send to the Governor.	GM Statewide Operations
8.	Inform the inmate of the determination of the GM Statewide Operations.	FM/ Authorised Officer
9.	Inform JH&FMHN if the inmate is placed in a non-association cell.	FM/ Authorised Officer
10.	<p>Update the OIMS <i>Care-in-Placement</i> module to record the 3 month direction.</p> <p>See <i>Figure 2 – OIMS Care in Placement module example</i> below this procedures table.</p>	FM/ Authorised Officer
11.	Save the report to EDRMS and place a copy on the inmate's CMF.	FM/ Authorised Officer

Figure 2 – OIMS Offender Care in Placement module 3 months

Offender Care in Placement						Review			
Direction#	Type*	Description	Status	Effective Date*	Duration*	Description	Review Date	Days	
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/02/2018	3M	3 months	26/05/2018	88	
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/02/2018	14D	14 days	12/03/2018	13	

Note: The initial 3 month direction of protective custody will commence on the same effective date as the initial 14 day direction. See Figure 3 below.

3.4 Procedures for 3-6 months report (second report), 6 months report and all subsequent 3 month reports

If the GM, Statewide Operations 3 months report (includes 14 days) (in *Review of protective custody direction*) confirms that an inmate’s protective custody direction is to continue, a further review is required prior to the expiration of three months and every following 3 month period until the protective custody direction is revoked.

The GM, Statewide Operations may deal with all 3-monthly reviews of protective custody directions (at the inmate’s request) without having to refer documentation to the Assistant Commissioner, Custodial Corrections (ACCC) or the Commissioner.

The same procedure as the [3.3] *Procedures for 3 months report (includes 14 days)* should be followed for every subsequent 3 month report, with the exception of the commencement date below.

Note: The commencement date of each further 3 month direction will be the day after the expiry date of the previous 3 month direction. See Figure 3 below.

Figure 3 – OIMS Offender Care in Placement module 3 month and subsequent

Offender Care in Placement						Review			
Direction#	Type*	Description	Status	Effective Date*	Duration*	Description	Review Date	Days	
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/05/2018	3M	3 months	26/08/2018	91	
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/02/2018	3M	3 months	26/05/2018	88	
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/02/2018	14D	14 days	12/03/2018	13	

4 Protective custody at the direction of the Governor

4.1 Policy

The Governor may direct an inmate be placed on protective custody if they are of the opinion that association of this inmate with other inmates constitutes, or is likely to constitute, a threat to the personal safety of the inmate, and the risk cannot be managed any other way. The *Assessment tool – inmates under threat* is to be utilised to assist with identifying inmates at risk or under threat.

Where the inmate has not requested protection, the Governor must inform the inmate of their right to have SORC review the protective custody direction and direct the inmate complete and sign annexure *Inmate acknowledgement* confirming they have been advised of this right.

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 must be referred to the correctional centre’s Intelligence Officer and maintained in a secured area in the Governor’s office. A notation should be made on the inmate’s case management file alerting officers to the existence of other sensitive material (e.g. “Further information relating to Protective Custody Direction Number XXXXX is located in the Governor’s office”).

4.2 Procedures for initial direction (14 days) at the request of the Governor

	Procedure	Responsibility
1.	Use the <i>Assessment tool - Inmate under threat</i> to assist with identifying inmates at risk or under threat and in determining their placement options (e.g. normal discipline; offender non-association alert; SMAP; Protection).	FM/Authorised officer
2.	Interview the inmate to consider the most appropriate management strategy, including reclassifying the inmate to another centre.	FM/Authorised officer
3.	If no other option is suitable, direct an inmate be placed in protective custody by completing annexure <i>Protective custody direction</i> outlining the reasons for placing the inmate in protective custody.	Governor/ Delegate
4.	Explain to the inmate the reasons why they are being placed into protective custody.	FM/Authorised officer
5.	Advise the inmate of their right to have SORC review the protective 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.	FM/Authorised officer
6.	Inform JH&FMHN that the inmate is placed in a non-association cell.	FM/Authorised officer
7.	Update the OIMS <i>Care in Placement</i> module to record the direction. See <i>Figure 4</i> below.	FM/ Authorised Officer
8.	Save the <i>Protective custody direction</i> to EDRMS and place a copy on the inmate’s CMF.	FM/ Authorised Officer

Figure 4 – OIMS Offender Care in Placement module 14 days

Offender Care in Placement						Review				
Direction#	Type*	Description	Status	Effective Date*	Duration*	Description	Review Date	Days		
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/02/2018	14D	14 days	12/03/2018	13		

4.3 Procedures for 3 month report (includes 14 days)

Where the Governor has determined that the direction should continue beyond 14 days, the following procedure should be followed:

	Procedure	Responsibility
1.	Use the <i>Assessment tool - Inmate under threat</i> to complete a new report which clearly: <ul style="list-style-type: none"> • outlines the details of the threat/s • includes any background/supporting information which led to the belief that a real threat/s exist. 	Governor or delegate
2.	Complete annexure <i>Review of protective custody selecting 3 Month Report (includes 14 days)</i> .	Governor or delegate
3.	Forward (scan/email) the report and all appropriate documentation to custodial.corrections@dcj.nsw.gov.au 7 days prior to the expiration of the initial direction.	Governor or delegate
4.	Review and either confirm, revoke or amend the protective custody direction on the <i>Review of protective custody direction</i> annexure.	GM Statewide Operations
5.	Ensure a copy of the decision and any accompanying papers are filed along with the initial direction at their office and sent to the Governor of the centre.	GM Statewide Operations
6.	Inform the inmate if the protective custody direction is to continue and: <ul style="list-style-type: none"> • remind the inmate of their right to have the SORC review the protective custody direction • if the inmate indicates that they wish to have the decision reviewed by the SORC, provide them with an <i>Application for a review of a segregated or protective custody direction by the Serious Offenders Review Council</i>. 	FM/ Authorised Officer
7.	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 enquiries_generalcouncil@dcj.nsw.gov.au	Governor/ Authorised Officer
8.	Inform JH&FMHN that the inmate is placed in a non-association cell.	FM/ Authorised Officer
9.	Update the OIMS Care-in-Placement module to record the direction. <i>See Figure 5 – OIMS Care in Placement module 3 months below.</i>	FM/ Authorised Officer

	Procedure	Responsibility
10.	Save the <i>Protective custody direction</i> to EDRMS and place a copy on the inmate's CMF.	FM/ Authorised Officer

Note: The initial 3 month direction of protective custody will commence on the same effective date as the initial 14 day direction. See *Figure 5* below.

Figure 5 – OIMS Offender Care in Placement module 3 months

Offender Care in Placement

Direction#	Type*	Description	Status	Effective Date*	Duration*	Description	Review Date	Days
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/02/2018	3M	3 months	26/05/2018	88
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/02/2018	14D	14 days	12/03/2018	13

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

If the Director's *3 months report (includes 14 days)* confirms that an inmate's protective custody direction is to continue, a further review is required prior to the expiration of three months.

	Procedure	Responsibility
1.	Use the <i>Assessment tool - Inmate under threat</i> to complete a new report which clearly: <ul style="list-style-type: none"> • outlines the details of the threat/s • includes any background/supporting information which led to the belief that a real threat/s exist • includes a CMU/SRC report setting out a revised case plan, if necessary, and placement options. 	Governor or delegate
2.	Complete a <i>Review of protective direction</i> selecting 3-6 months Direction (second report).	Governor or delegate
3.	Email the report and all appropriate documentation to custodial.corrections@dcj.nsw.gov.au 7 days prior to the expiration of the review period.	Governor or delegate
4.	Review and either confirm, revoke or amend the protective custody direction on the <i>Review of protective custody direction</i> annexure.	GM Statewide Operations
5.	Ensure a copy of the decision and any accompanying papers are filed along with the initial direction at their office and sent to the Governor of the centre.	GM Statewide Operations
6.	Inform the inmate if the protective custody direction is to continue and: <ul style="list-style-type: none"> • remind the inmate of their right to have the SORC review the protective custody direction • if the inmate indicates that they wish to have the decision reviewed by the SORC, provide them with an <i>Application for a review of a segregated or protective</i> 	FM/ Authorised Officer

	Procedure	Responsibility
	<i>custody direction by the Serious Offenders Review Council.</i>	
7.	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 enquiries_generalcouncil@dcj.nsw.gov.au	Governor/ Authorised Officer
8.	Inform JH&FMHN that the inmate is placed in a non-association cell.	FM/ Authorised Officer
9.	Update the OIMS Care-in-Placement module to record the direction. <i>See Figure 6 – OIMS Care in Placement module 3 months below.</i>	FM/ Authorised Officer
10.	Save the <i>Protective custody direction</i> to EDRMS and place a copy on the inmate's CMF.	FM/ Authorised Officer

Note: The commencement date of the 3-6 month direction will commence the day after the expiry date of the 3 month direction. See *Figure 6* below.

Figure 6 – OIMS Offender Care in Placement module 3 months

Offender Care in Placement

Direction#	Type*	Description	Status	Effective Date*	Duration*	Description	Review Date	Days
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/05/2018	3M	3 months	26/08/2018	91
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/02/2018	3M	3 months	26/05/2018	88
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/02/2018	14D	14 days	12/03/2018	13

4.5 Procedures for 6 month(s) and subsequent 3 month directions

If the Governor recommends that the protective custody direction is to continue over 6 months, this requires the ACCC's recommendation and the Commissioners direction. A further review must be undertaken every 3 months.

	Procedure	Responsibility
1.	Use the <i>Assessment tool - Inmate under threat</i> to complete a new report which: <ul style="list-style-type: none"> • outlines the details of the threat/s • includes any background/supporting information which led to the belief that a real threat/s exist • includes a CMU/SRC report setting out a revised case plan, if necessary, and placement options • includes a separate report identifying whether there has been any deterioration in the inmate's health. 	Governor or delegate
2.	Complete a <i>Review of protective custody direction</i> and select 6 Month & subsequent 3 month directions.	Governor or delegate

	Procedure	Responsibility
3.	Email the report and all appropriate documentation to custodial.corrections@dcj.nsw.gov.au 7 days prior to the expiration of the review period.	Governor or delegate
4.	Make a recommendation to either revoke, confirm or amend the protective custody direction on the <i>Review of protective custody</i> and forward to the ACCC.	GM Statewide Operations
5.	Make a recommendation to either revoke, confirm or amend the protective custody direction on the <i>Review of protective custody direction</i> and forward to the Commissioner	ACCC
6.	Review and either confirm, revoke or amend the protective custody direction on the <i>Review of protective custody direction</i> .	Commissioner
7.	Forward the <i>protective custody direction</i> to the General Manager, State wide Operations, Custodial Corrections (GM, Custodial Corrections).	Commissioner's office
8.	Notify and scan/email a copy of the signed annexure <i>Review of protective custody</i> to the Governor of the relevant correctional centre immediately.	GM Statewide Operations
9.	Inform the inmate if the protective custody direction is to continue and: <ul style="list-style-type: none"> remind the inmate of their right to have the SORC review the protective custody direction if the inmate indicates that they wish to have the decision reviewed by the SORC, provide them with an <i>Application for a review of a segregated or protective custody direction by the serious offenders review council</i>. 	FM/ Authorised Officer
10.	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 enquiries_generalcouncil@dcj.nsw.gov.au	FM/ Authorised Officer
11.	Update the OIMS Care-in-Placement module to record the direction. <i>See Figure 7 – OIMS Care in Placement module 3 months below.</i>	FM/ Authorised Officer
12.	Save the <i>Protective custody direction</i> to EDRMS and place a copy on the inmate's CMF.	FM/ Authorised officer

Figure 7 – OIMS Offender Care in Placement module 3 months

Offender Care in Placement						Review			
Direction#	Type*	Description	Status	Effective Date*	Duration*	Description	Review Date	Days	
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/05/2018	3M	3 months	26/08/2018	91	
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/02/2018	3M	3 months	26/05/2018	88	
LGW1165646	PRNA	PROTECTION NON ASSOCIA	Active	27/02/2018	14D	14 days	12/03/2018	13	

The Commissioner must review all directions (that were not requested in writing by the inmate) extending beyond six (6) months of continuous protective custody.

The Commissioner must notify the Minister in writing when an inmate is held in protective custody for a total continuous period exceeding six (6) months.

5 Protective 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 protective custody direction, they must be managed collaboratively with JH&FMHN 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 protection cell.

JH&FMHN staff have their own guidelines for assessing protection 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 JH&FMHN in this process, and give them prompt access to the inmate and the inmate’s CMF.

CSNSW personnel must also inform the assessing JH&FMHN 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.	<p>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 protective custody direction.</p> <p>If JH&FMHN 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.</p>	Governor

2.	Give the NUM, NIC or AHNM a brief explanation of the circumstances of the protective custody order and of any special risks the inmate may present to their safety or security.	Governor
3.	Record on the <i>Protective 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; or the inmate needs medical or psychiatric care; or the inmate's condition deteriorates. 	Governor/ Authorised officer
5.	Assess the inmate within 24hours.	JH&FMHN
6.	Determine whether the inmate's mental health can be managed while the inmate continues to be on protection. Advise the Governor of this determination in a <i>Health Problem Notification Form</i> (HPNF).	JH&FMHN

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

	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 JH&FMHN
2.	Enter a medical alert on OIMS with reference to the Management Plan.	Authorised Officer

If JH&FMHN believe the **inmate's mental health is likely to deteriorate while in protection**:

	Procedure	Responsibility
1.	Revoke, confirm or amend the protective custody 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 protection 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 JH&FMHN

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 protective custody order extended beyond three (3) months:

	Procedure	Responsibility
1.	Inform JH&FMHN at least four weeks before the expiration date when an extension to the order is being considered.	Governor
2.	Allow for JH&FMHN 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 protection.	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>Protective Custody Direction</i> .	Governor

6 Transfer of inmates on protective custody

6.1 Policy

In accordance with section 15 of the *Crimes (Administration of Sentences) Act 1999*, the protective 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 protective custody direction prior to the transfer of the inmate unless an assessment report indicates that the inmate is no longer requiring protection.

When transferring an inmate on a protective custody order, 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 segregated custody direction, the same procedures as 6.2 below must be followed.

6.2 Procedures for transfer of inmates under protective custody direction

Where the Governor (delegate) believes the inmate is still at significant and ongoing risk of harm from others, 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</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 protective custody.	Governor/OIC
3.	Revoke, confirm or amend the protective custody direction.	Governor/OIC
4.	Note decision in OIMS.	Governor/OIC

7 Review of protective custody directions by the SORC

7.1 Policy

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

7.2 Procedures for review hearing

	Procedure	Responsibility
1.	Ensure the inmate has properly completed <i>Application: review of segregated or protective custody direction by SORC</i> including the reasons for requesting a review.	FM/Authorised officer
2.	Forward completed application to the Governor.	FM/Authorised officer
3.	Record in their journal: <ul style="list-style-type: none"> the name and Master Index Number (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/Authorised officer
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 or delegate
5.	Email completed application, Governor's Report and any other supporting reports in relation to the protective custody direction decision to sorc@dcj.nsw.gov.au within 2 working days of receipt of the inmate's application.	Authorised officer
6.	Obtain copies of all documentation relevant to the period of protective custody being reviewed, including: <ul style="list-style-type: none"> a copy of the protective 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 (pertaining to the current protective custody period) intelligence reports/assessments relevant to the direction under review. 	Governor or delegate
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 or delegate
8.	Ensure all relevant documentation which will be relied on at the review hearing remains unedited and is emailed to enquiries-DCJLegal@facs.nsw.gov.au	Governor or delegate

	Procedure	Responsibility
	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.	
9.	Record dispatch of documentation against the previous entry in the Governor's journal.	Governor or delegate
10.	Email to the correctional centre immediately, the signed <i>Application for a review of a segregated or protective custody direction by the serious offenders review council</i> confirming receipt of any documents pertaining to the application for review of protective custody.	Senior Legal Officer from General Council
11.	Respond to any inquiries from DCJ Legal regarding evidence.	SORC
12.	Email to the correctional centre immediately, the signed <i>Application for a review of a segregated or protective custody direction by the serious offenders review council</i> confirming receipt of the application for review of protective 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 (delegate) of the relevant correctional centre for service on the inmate if the SORC has not rejected the application.	SORC Secretariat
16.	Notify the DCJ LEGAL of the review hearing date immediately after it is fixed and at least seven days before the hearing.	SORC Secretariat
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.	SORC Secretariat
18.	Complete annexure <i>Notice of review hearing</i> declaration on the reverse side and return it to SORC by email.	Governor or delegate

7.3 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 JustConnect 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

	Procedure	Responsibility
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

7.4 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).

7.5 Determinations of the review by 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.

7.6 Procedures for determinations of review by SORC

Once the Governor receives a copy of the completed *Notice of Determination*, they are to:

	Procedure	Responsibility
1.	Place a copy of the completed annexure <i>Notice of determination</i> on the inmate's CMF.	FM/Authorised officer
2.	Ensure the determination is carried out.	Governor or delegate

7.7 SORC considerations

The SORC may refuse to review the direction if:

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

The 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, the SORC must consider:

- the legality of the protective 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 is in the interest of the public.

7.8 Suspension directions

The Chairperson of the SORC may give a direction for:

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

A *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 protective custody unless a new protective custody direction is initiated.

The Chairperson may at any time vary or revoke a suspension direction. A suspension direction does not revoke a protective 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 protective custody direction
- for any other reason that the Chairperson thinks fit.

7.9 Effect of SORC decision upon further protective custody

While a Governor (delegate) is obliged to enforce any decisions of the SORC, such decisions affect only that protective custody direction that is subject to the review from which the decision was made. If the SORC orders the revocation of a protective custody direction, then upon its revocation, that order ceases to exist and the inmate must be returned to normal discipline.

If a Governor (delegate) obtains further information or other circumstances arise that the 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.

8 Revocation of protective custody directions

8.1 Policy

A protective custody direction authorised by the Commissioner or any delegate may be revoked by the Governor (delegate) if it is assessed:

- the inmate can be safely returned to normal discipline or to a more appropriate management regime
- the threat/s for which the direction was imposed no longer exists or is reduced

there is a better means of managing the inmate/situation, other than by the use of protective custody direction.

8.2 Procedures for revocation at the request of the inmate

Where the direction was made at the request of the inmate as per section 11(2) of the *Crimes (Administration of Sentences) Act 1999*:

	Procedure	Responsibility
1.	Receive request in writing from the inmate that the direction be revoked.	Governor or delegate
2.	Assess the threat.	Governor or delegate
3.	Revoke a direction following the procedures outlines in 8.3 below.	Governor or delegate

Note: Where the Governor (or delegate) believes a threat is ongoing, they must make a new direction under s 11(1) of the *Crimes (Administration of Sentences) Act 1999*, refer to 1.4 above.

8.3 Procedures for revocation at the direction of the Governor

	Procedure	Responsibility
1.	Complete the Revocation of Protective Custody annexure to the <i>Review of protective custody direction</i> clearly outlining the reason/s why the direction is being revoked.	Governor or delegate
2.	Make arrangements for the appropriate movement and placement of the inmate.	FM/Authorised Officer
3.	Ensure that the OIMS Care-in-Placement module is updated to record the revocation.	FM/Authorised officer
4.	Ensure that the <i>Revocation of Protective Custody</i> and a printout of the OIMS <i>Care-in-Placement</i> screen are saved in EDRMS and a copy placed on the inmate's case management file.	FM/Authorised officer

Note: Where an inmate has sought a review by the SORC of protective custody direction and that direction is revoked by the Governor prior to the review hearing, a copy of the revocation should be emailed to Executive Officer, SORC at sorc@dcj.nsw.gov.au

and the Office of General Counsel at

enquiries_generalcounsel@dcj.nsw.gov.au

9 Quick links

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

10 Definitions

ACCC	Assistant Commissioner Custodial Corrections
ACOM&P	Assistant Commissioner Offender management and Programs
ACS&I	Assistant Commissioner Security and Intelligence
Authorised Officer	The officer authorised by the Governor to perform the functions set out in this part of the Custodial Operations Policy and Procedure Manual
AVL	Audio Visual Link
CIG	Corrections Intelligence Group
CMF	Case Management File
CMU	Case Management Unit
COPP	Custodial Operations Policy and Procedures
CSI	Corrective Services Industries
CSNSW	Corrective Services New South Wales
JH&FMHN	Justice Health & Forensic Mental Health Network (JH&FMHN) is a division of NSW Health providing health services to inmates.
LOPs	Local Operating Procedures
Immediate Action Plan	Is a plan not a form - it's a plan for addressing the real and immediate risk that is being posed to the inmate, e.g. implementing a short term management plan, separation, assessment for protection, NA
MIN	Master Index Number
OGC	Office of the General Counsel
OIMS	Offender Integrated Management System
PRLA	Protection Limited Association Area
PRNA	Protection Non Association Area
S&I	Security and Intelligence, a branch of CSNSW
SMAP	Special Management Area Placement

SORC	Serious Offenders Review Council
SRC	Segregation Review Committee

11 Document information

Business centre:	Custodial Operations	
Approver:	Kevin Corcoran	
Date of effect:	16 December 2017	
EDRMS container:	18/7009	
Version	Date	Reason for amendment
1.0		Initial publication (<i>Replaces section 14 of the superseded Operations Procedures Manual</i>)
1.1	08/05/19	Aligned policy with law based on legal advice, included OIMS screenshots and general review
1.2	18/02/20	Obligation to inform inmate of right to appeal to SORC when direction is first imposed, at 4.1 <i>Policy</i> and 4.2 <i>Procedures for initial direction (14 days) at the request of the Governor</i>
1.3	12/03/20	General formatting update and improvements
1.4	30/10/20	<p>Deletion of Protection (Limited Association) (PRLA) as a placement option.</p> <p>Delegations have been amended at 1.6 and throughout to enable General Manager Statewide Operations to review protective custody directions at 14 days, 3 months and 3-6 months.</p> <p>Clarification of procedures for <i>Review of protective custody direction by SORC</i> at part 7.</p> <p>Obligation to store all protective orders and associated documentation on EDRMS, with prescribed naming convention (1.7 and throughout).</p> <p>Clarification of procedures for review hearings by SORC when conducted via AVL (8.4).</p> <p>Updated email contacts for SORC and DCJ Legal (General Council).</p>
1.5	16/09/22	Removal of Interview for Placement and reference to Person of interest and/or Behaviour Alert in OIMS at subsection 2.1 Policy.
1.6	10/07/23	<p>Update to the policy and procedures for completing the <i>Governor's assessment and review advice (GARA)</i> when transferring inmates who are held on protective 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>.</p> <p>Comprehensive policy and procedures included at Part 5 <i>Protective custody of mentally ill inmates</i> for the management of inmates on protection who are, or are</p>

	suspected of, suffering from a mental illness. These policy and procedures are simply codification of existing practices and mirror existing policy and procedures for the management of inmates on segregation who are, or are suspected of, suffering from a mental illness.
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