Justice Health and
Forensic Mental Health Network

Justice Health NSW Policy

Segregated Custody & Mandated Protection

Issue Date: 02 November 2023

Together for
Healthier Tomorrows

Segregated Custody & Mandated Protection

Policy Number 1.360

Policy Function Continuum of Care

Issue Date 02 November 2023

Next Review Date 02 November 2026

Risk Rating High

Summary This policy provides directions to Justice Health and Forensic Mental Health Network (Justice Health NSW) staff regarding obligations to monitor the health of persons placed in segregated custody, mandated protection or confined by Corrective Services New South Wales, GEO Group, MTC Broad Spectrum & SERCO.

Responsible Officer General Manager, Primary Care

Applies to
- ☐ Administration Centres
- ☐ Community Sites and programs
- ☒ Health Centres - Adult Correctional Centres or Police Cells
- ☐ Health Centres - Youth Justice Centres
- ☒ Long Bay Hospital
- ☐ Forensic Hospital

CM Reference POLJH/1360

Change summary
- Policy document template updated
- Significate changes in section 3.1.1 in consultation with Service Director CMH

Authorised by Chair, Policy Steering Committee

Revision History

#	Issue Date	Number and Name	Change Summary
8	November 2023	1.360 Segregated Custody & Mandated Protection	• Policy document template updated • Significate changes in section 3.1.1 in consulation with Service Director CMH
7	September 2020	1.360 Segregated Custody & Mandated Protection	• Updated job titles • Review of legislation and related documents • Updated policy links • Grammar and wording changes

6	August 2016	1.360 Segregated Custody & Mandated Protection	• Update of legislation, refereces and related documents • Addition of the term mandated protection following Coroner's recommendations
5	September 2012	1.360 Segregated Custody	• Systematic and Procedural changes
4	May 2009	1.360 Segregated Custody	• Minor changes
3	April 2006	1.360 Segregated Custody	• Minor changes – terminology updates
2	June 2005	1.360 Segregated Custody	• Minor changes
1	September 2000	1.360 Segregated Custody	• New policy

PRINT WARNING

Printed copies of this document, or parts thereof, must not be relied on as a current reference document.

Always refer to the electronic copy for the latest version.

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1. Preface

This policy provides direction to Justice Health and Forensic Mental Health Network (Justice Health NSW) staff, regarding their obligations to monitor the health of patients who are placed in segregated, or protective custody or confined to a cell for purposes of punishment by Corrective Services New South Wales (CSNSW), or other security providers.

Clause 289 of *Crimes (Administration of Sentences) Regulation 2014* (the Regulation) requires that a person who is confined to a cell for the purposes of punishment, or is under a segregated or protective custody direction, must be kept under daily observation by a prescribed health officer and have access to essential medical care.

For the purposes of clause 289 and this policy, the 'prescribed health officer' is the staff member or members prescribed by this policy for the purpose of monitoring the health of a patient who is in segregated or protective custody or confined to a cell for the purposes of punishment.

Under the *Crimes (Administration of Sentences) Act 1999* (the Act), the Commissioner of CSNSW or the Governor of a correctional centre may direct that an inmate be held in segregated custody if it is necessary to secure:

a) the personal safety of any other person, or

b) the security of a correctional centre, or

c) good order and discipline within a correctional centre.

Under the Act, an inmate can be placed in protective custody in one of two ways, either:

a) at the direction of the Governor (or delegate) if, the association of this inmate with other inmates constitutes, or is likely to constitute, a threat to the personal safety of the inmate; or

b) at the request of the inmate.

The Act permits an inmate subject to a segregated or protective custody direction to be detained in isolation from all other inmates or in association with such other inmates as the Commissioner or Governor may determine. The inmate is not to suffer any reduction of diet and is not to be deprived of any rights or privileges other than those determined by the Commissioner or Governor or necessarily incidental to the holding of the inmate in segregated or protected custody.

This policy does not apply to patients on self-requested protective custody who are placed in 'protection wings' or other designated protection areas of the correctional centre. These patients in self-requested protective custody are able to attend a satellite health centre or the main health centre at designated times in the day.

This policy does apply to patients whose protection order prevents them from associating with any other inmate in the correctional facility, that is, 'non-association,' and who are confined to their cell and are unable to access health services or attend the health centre in any 24 hour period.

The effect on patients in segregated or protective custody or confinement to a cell for punishment may be distressing, particularly for patients who are at risk of self-harm, who suffer from mental illness, or who identify as Aboriginal or Torres Strait Islander. It is therefore important to ensure that medical care provided to patients held in such conditions is appropriate, responsive, and culturally sensitive.

A patient who is held in segregated custody or mandated protection must:

- not suffer any reduction of diet;
- have an opportunity to exercise;
- have appropriate clothing, water, toilet facilities, lighting and heating; and
- not to be deprived of any rights or privileges other than those determined by the Commissioner either generally or in a particular case.

It is the responsibility of the Governor of a correctional centre to advise Justice Health NSW staff within 24 hours of any inmate in the centre who is placed under a segregated custody order or who is placed in complete isolation from other inmates and are consequently unable to access health services in any 24-hour period.

2. Policy Content

2.1 Mandatory Requirements

- Justice Health NSW staff must not be involved in the CSNSW decision making process to place a patient in segregated custody or mandated protection.
- A patient who is confined under a segregated custody or mandated protection direction must be provided with daily observation by Justice Health NSW primary care nursing staff and have access to essential medical care. The outcome of daily review must be recorded in the Patent Administration System (PAS) and the electronic medical record.
- Where available, an Aboriginal Health Worker or the visiting Aboriginal Medical Services must be made aware of, and have access to, patients in segregated custody or mandated protection who identify as Aboriginal or Torres Strait Islander. This access must be additional to the daily review by nursing staff.
- The provision of culturally sensitive and appropriate mental health and social and emotional well- being health services to Aboriginal patients must be in accordance with *NSW Aboriginal Mental Health and Wellbeing Strategy 2020 - 2025*.

3. Procedure Content

3.1 Correctional Centres – Segregation/Mandated Protection of Patients

Following notification from CSNSW, the Nursing Unit Manager (NUM) or delegate at that centre must ensure the patient:

- has an initial review within 24 hours of being segregated/protected;
- be reviewed, face to face daily by primary care nursing staff; and
- be offered an assessment/review with a clinician at least weekly in the health centre.

1. The initial assessment must involve interviewing the patient and checking the patient's Health Record for evidence of any physical and mental health condition. While a physical examination will not usually be necessary, the initial and daily review must include engagement with the patient, which must be aimed at assessing their current physical and mental health and any potential clinical risks. CSNSW must assist Justice Health NSW in

this process, and provide Justice Health NSW staff with prompt access to the patient and their Case Management file. If nursing staff encounter any difficulties in accessing the patient, this must be escalated through the staff's line management immediately, or to the After Hours Nurse Manager (AHNM) after hours.

2. A record of the initial assessment and each daily review must be documented in the patient's Health Record. Where an urgent health concern is identified during the assessment, the nurse must contact the relevant Medical Officer /Nurse Practitioner (NP) for advice. Remote Off -site After Hours Medical Services (ROAMS) must be contacted if GP is not available onsite. For other non-urgent health concerns, a relevant waitlist must be created as per 4.032 *Prioritising Patients on Waitlists*.
3. Justice Health NSW staff must be aware that prolonged segregation/isolation may adversely affect a patient's physical and mental health. If the NUM/Delegate has any concerns about the patient's wellbeing, these concerns must be directed in writing to the Regional Nurse Manger (RNM) of the relevant area who will assess the individual case, seek necessary advice and take the appropriate action. Where there is sufficient concern, this will be communicated/escalated to the General Manager Primary Health by the RNM.
4. The Justice Health NSW staff member must liaise with CSNSW to ensure they are aware of any relevant information which would assist in the review of the patient and any management strategies required. This may include information such as an impending transfer or deportation, death or illness of a family member or friend, a change in the patient's classification or any recent irrational behaviour or offences in custody

This policy does not exclude the patient having a Mandatory Notification raised and managed in keeping with the policy for managing patients at risk of self-harm. Refer to Justice Health NSW policy 1.380 *Clinical Care of People Who May Be Suicidal*.

3.2 Segregation/Mandated Protection of Mentally Ill Patients

1. Where a clinician who is undertaking the patients daily review observes a change to the patient's mental state, they must complete a mental health nurse referral through the relevant PAS Waitlist. The PAS Waitlist entry must outline that the patient is in segregated custody and the observed changes to the patient's mental state.
2. Where a CSNSW staff member notifies a Justice Health NSW staff member that they have noted a change to a patient's mental state whilst in segregated custody, the Justice Health NSW staff member must complete a mental health referral as outlined above.
3. Where a patient has a diagnosed mental illness or a suspected mental illness, the Justice Health NSW nurse must ensure the patient is on a mental health nurse (for major mental illness diagnosis) or GP (for depression/anxiety diagnosis) PAS Waitlist. Where there is no PAS Waitlist, this must be completed.
4. The mental health nurse will complete mental health assessment and reviews as determined through a risk management process. The mental health nurse will continue to coordinate psychiatrist reviews as required.
5. Where the mental health nurse has concerns in relation to the patient's mental state, they must prioritise the patient for urgent review by a Psychiatrist.
6. The Psychiatrist will review patients in segregated custody as outlined in the patient's mental health plan or on an urgent basis.

7. Where the Psychiatrist assesses the patient and determines that segregated custody is having a significant detrimental effect on the patient mental state, the Psychiatrist must formally notify the Correctional Centre Governor outlining their clinical opinion.
8. Prior to notifying the Governor, the Psychiatrist must discuss the patient of concern with the Custodial Mental Health Clinical Director and discuss the patient's current health management plan and agree on suggested management strategies to be escalated to the Governor.
9. The Psychiatrist must complete a letter to the Governor outlining their clinical option on how segregated custody is significantly impacting the patients mental state and outlining suggested patient management strategies to assist in mitigating risks.
10. The patient's health management must be documented through the patients' health record to ensure all staff are aware of the management strategies and undertake the relevant management within the outlined timeframes.
11. Patients assessed as requiring assertive psychiatric care and case management in a Custodial Mental Health hub area must be referred for review, consideration and prioritisation as per 6.139 *Custodial Mental Health Patient Flow Procedure*.

4. Definitions

Must

Indicates a mandatory action to be complied with.

Should

Indicates a recommended action to be complied with unless there are sound reasons for taking a different course of action.

Seclusion

Refers to patients who have been involuntarily placed alone in their cell by Justice Health NSW staff following authorisation by a Medical Officer. The patient must be a correctional patient under the Mental Health (Forensic Provisions) Act 1990.

5. Related Documents

Legislations	*Crimes (Administration of Sentences) Regulation 2014* *Crimes (Administration of Sentences) Act 1999* *Mental Health (Forensic Provisions) Act 1990 No 10* *Work Health and Safety Act 2011*
Justice Health NSW Policies, Guidelines and Procedures	1.010 *Access to Patients – Medical Emergencies* 1.120 *Management of a Death* 1.231 *Health Problem Notification Form (Adults)*

	1.319 *Patient Engagement and Observation – Forensic Hospital and Long Bay Hospital Mental Health Unit* 1.340 *Accommodation – Clinical Recommendations (Adults)* 1.380 *Clinical Care of People Who May Be Suicidal (ImpG)* 4.032 *Prioritising Patients on Waitlists* 5.110 *Work Health and Safety* 6.139 *Custodial Mental Health Patient Flow Procedure*
Justice Health NSW Forms	
NSW Health Policy Directives and Guidelines	PD2022_023 *Enterprise-wide Risk Management*
Other documents and resources	*NSW Aboriginal Mental Health and Wellbeing Strategy 2020 - 2025* *CSNSW Operations Procedures Manual - Section 14 Segregated and Protective Custody* *Offender Classification & Case Management Policy & Procedures Manual* *CSNSW Operations Procedures Manual - Section 13.1 Serious*