

Australian Capital Territory

Corrections Management (Intensive Correction Order Offenders in Full-Time Custody) Operating Procedure 2017

Notifiable instrument NI2017-120

made under the

Corrections Management Act 2007, s 14 (Corrections policies and operating procedures)

1 Name of instrument

This instrument is the *Corrections Management (Intensive Correction Order Offenders in Full-Time Custody) Operating Procedure 2017*.

2 Commencement

This instrument commences on the day after it is notified.

3 Operating Procedure

I make the Intensive Correction Order Offenders in Full-Time Custody Operating Procedure, attached to this instrument, to facilitate the effective and efficient management of correctional services.

4. Revocation

Nil.

Don Taylor
A/g Executive Director
ACT Corrective Services
8 March 2017

Intensive Correction Order offenders in full-time custody

Operating Procedure

ACT Corrective Services

Day March 2017
Version 1

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ACT
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Justice and Community Safety

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1 INTRODUCTION

This Operating Procedure outlines the requirements relating to management of detainees who are in full-time custody while an Intensive Correction Order (ICO) assessment is being undertaken or as a result of a suspension or cancellation of an ICO.

This Operating Procedure reflects the requirements of the *Corrections Management Act 2007* (CMA).

The impact of this Operating Procedure on a detainee's human rights has been considered consistent with the *Human Rights Act 2004*. A detainee's human rights are limited only to the extent that it is reasonably and demonstrably justifiable.

2 OVERVIEW

An ICO is a sentence of imprisonment to be served in the community. Where a sentence of imprisonment is for not more than two years (or, in exceptional circumstances, not more than four years) the court may order that the sentence be served by intensive correction in the community. Offenders sentenced to an ICO are subject to a strict regime of supervision and case management.

One of the foundations of the ICO is the concept of swift and certain sanctions in the event of a breach. This means that offenders should expect to be breached when they fail to comply with their obligations, and that breach proceedings should be expedited.

There are times when an offender may be required to be held in full-time custody at a correctional centre. This includes: if the court issues a remand warrant for the person while awaiting the preparation of an ICO Assessment Report (ICOAR), or when serving a period of suspension or cancellation of the ICO following a breach of the order. All detainees held at an ACT correctional centre are subject to all requirements under the CMA, including notified policies and operating procedures and issued General Manager's Instructions (GMIs).

The objective of this Operating Procedure is to assist staff in managing detainees who are required to be in full-time custody because of an ICO assessment, suspension or cancellation, and as a result are subject to some differing in-custody requirements to other detainees.

A number of detailed procedures have been created by Community Corrections, outlining how an ICO detainee is assessed, supervised, and case managed in the event of a breach.

This Operating Procedure should be read in conjunction with the following Community Corrections documents:

- ◆ *Intensive Correction Order Policy*
- ◆ *ICO Assessment Report Framework*
- ◆ *ICO Supervision Structure and Case Management Framework*
- ◆ *ICO Breach Policy*

3 RECORDS MANAGEMENT

While there may be a Community Correction electronic or hardcopy record for a person coming into full-time custody in relation to an ICO, a custodial detainee hardcopy file and electronic record must be created in accordance with the *Admissions Procedure*.

The warrant for remand or imprisonment must be scanned into the detainee's electronic record, with the date of release specified. The current episode in the custodial electronic record should indicate that the offender is, or has been, subject to an ICO, or is currently awaiting an ICO Assessment.

4 REMANDEE SUBJECT TO AN ICO ASSESSMENT

When a court has made a finding of guilt in relation to a charge, it may order the offender be assessed for an ICO. After the court orders the assessment, the matter will be adjourned for approximately eight weeks, and an officer from Community Corrections is required to prepare an ICOAR.

While the ICOAR is being prepared the court will either issue a warrant for remand or release the offender on bail. When a warrant for remand is issued, the person will be transferred to an ACT correctional centre, and will be subject to all requirements under the CMA, including notified policies and operating procedures and issued GMIs.

4.1 Additional reporting and alcohol and other drug testing

As part of the ICO assessment process, the detainee is required to report to an assessing Community Corrections Officer and, where appropriate, undertake additional Alcohol and Other Drug (AOD) testing.

During the assessment process, the assessing Community Corrections Officer will inform the Area Manager/Night Shift Supervisor of the correctional centre of any assessment period requirements. The Area Manager/Night Shift Supervisor will ensure that any requirements are entered on the detainee's electronic record and communicated to relevant staff.

The detainee will receive visits from their assigned Community Corrections Officer.¹ The detainee will be required to undertake at least one AOD test. Depending on the outcome of the first test, further testing may be required.

Corrections Officers will facilitate access to detainees for Community Corrections Officers, and will conduct AOD testing as required for the purposes of assessment and monitoring in accordance with the *Drug Testing Policy* and *Drug Testing Procedure*.

The Area Manager is responsible for ensuring AOD testing is conducted in accordance with requested timeframes. The process will be subject to compliance review consistent with existing compliance processes related to AOD testing at ACT correctional centres.

¹ *ICO Assessment Report Framework*, paras 9.4-9.5.

5 DETAINEE ON AN ICO SUSPENSION

Where an offender who has been sentenced to an ICO is found to have breached their ICO obligations, the Sentence Administration Board (SAB) may choose to suspend the offender's ICO for either three or seven days (the suspension period).

The SAB will issue a suspension warrant requiring the offender to serve the suspension period in full-time custody, subject to all requirements under the CMA, including notified policies and operating procedures and issued GMIs.

5.1 Case management, program assessment and engagement

A detainee in custody on ICO suspension will be subject to all custodial, health and Corrections Psychological and Support Services (CPSS) induction and assessment processes. The Area Supervisor and Offender Services and Corrections Programs Manager must be notified of a detainee entering custody on an ICO suspension.

The offender's allocated Community Corrections Officer must ensure Corrections Officers, Offender Services and Custodial Management are aware of the detainee's 'Community Corrections Case Management Plan' (Plan).

This Plan must be made available on the detainee's electronic file and, unless amended or a new plan is implemented, all staff must ensure the detainee is treated consistent with this Plan.

The Community Corrections officer responsible for the detainee's case management will remain engaged with the detainee during their suspension period by conducting face-to-face interviews, or through telephone contact when face-to-face contact is not possible. If required, Offender Services may also provide additional support or case management to the detainee.

5.2 Release at expiry of suspension period

At the expiry of the suspension period, the detainee is to be released from full-time custody and subject to the conditions and requirements of the pre-existing ICO.

The detainee is to be discharged from custody in accordance with the *Custody, Bail and Discharge Policy*.

As part of this process, the detainee must be provided with a 'Direction to Report' form. This form will have been pre-prepared and included in the release folder by the assigned Community Corrections Officer.

6 DETAINEE ON A CANCELLED ICO

If an offender's ICO is cancelled, a warrant for imprisonment will be issued, the person will be transferred to an ACT correctional centre (either by the Court Transport Unit or, in the event that the offender has been arrested, the police), and subject to all requirements under the CMA, including notified policies and operating procedures, and issued GMIs, including placement and programs assessments.

6.1 Case management, program assessment and engagement

A detainee in custody on a cancelled ICO will be subject to induction and assessment processes. The Area Supervisor, CPSS, and Offender Services and Corrections Programs Manager must be notified of a detainee entering custody on a cancelled ICO.

The offender's allocated Community Corrections Officer must ensure that Corrections Officers, CPSS, and Offender Services and Custodial Management are aware of the Community Corrections Case Management Plan.

6.2 Application for ICO re-instatement

Following cancellation, a detainee is eligible to apply for a reinstatement of the ICO. The SAB is only able to reinstate an ICO if the detainee has spent thirty days in full-time custody following an ICO cancellation.²

Reinstatement is only available for detainees who have had their ICO cancelled, and is not available for any other sentence types. An application to reinstate an ICO will be facilitated through the detainee's Case Manager. Once the reinstatement application is received by the SAB it will decide if the application is to progress in which case it will request an 'ICO Reinstatement Assessment Report' from ACT Community Corrections and the matter scheduled for consideration no less than eight weeks' time.

If the application is successful, the detainee is released into the community to serve the remainder of their sentence by ICO. If the application is refused, the detainee remains in custody, and is required to wait a further six months before making any further applications for reinstatement.

Step	Description	Responsibility
1	Detainee requests 'ICO Reinstatement Application' form	Detainee
2	'ICO Reinstatement Application' form provided to the detainee	Case Manager
3	Form completed	Detainee
4	Form forwarded to SAB secretariat	Case Manager
5	Application either accepted or rejected If rejected, letter sent to detainee informing them of the outcome If accepted, a date will be set for hearing of the application. All parties will be informed of the date and an 'ICO Reinstatement Assessment Report' requested. Escort warrant prepared and sent to the relevant ACTCS correctional centre	SAB Secretariat
6	'ICO Reinstatement Assessment Report' prepared – this will involve multiple meetings with the detainee	Community Corrections
7	Detainee conveyed to and from the hearing of the application in accordance with the <i>Escorts Policy and Operating Procedure</i>	Admissions and CTU
8	If the application is granted and the ICO is reinstated, the detainee is to be released from custody	Admissions or CTU

² *Crimes (Sentence Administration) Act 2005* s 73(2).

Step	Description	Responsibility
9	If the application is not granted, or if release is set for a date in the future, the detainee is to be returned to the relevant correctional centre in accordance with the <i>Escorts Policy and Operating Procedure</i>	Admissions and CTU

7 FORMS AND TEMPLATES

Community Corrections Case Management Plan
 Direction to Report
 Intensive Correction Order (ICO) Reinstatement Application Form
 ICO Suspension Information Sheet
 ICO Cancellation and Reinstatement Information Sheet

Document details

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Document owner/approver	Acting Executive Director, ACT Corrective Services
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Date effective	
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Version control

Version	Effective	Instrument
Version 1		