

Australian Capital Territory

Corrections Management (Detainee Discipline – Penalties) Operating Procedure 2022

Notifiable instrument NI2022-35

made under the

Corrections Management Act 2007, s14 (Corrections policies and operating procedures)

1 Name of instrument

This instrument is the *Corrections Management (Detainee Discipline – Penalties) Operating Procedure 2022*.

2 Commencement

This instrument commences on the day after its notification day.

3 Operating Procedure

I make this operating procedure to facilitate the effective and efficient management of correctional services.

Ray Johnson APM
Commissioner
ACT Corrective Services
28 January 2022



OPERATING PROCEDURE	Detainee Discipline – Penalties
OPERATING PROCEDURE NO.	D11.3
SCOPE	Alexander Maconochie Centre

PURPOSE

To provide instructions to Presiding Officers on the administrative penalties that may be given in relation to a proven or admitted breach of discipline and the administration of the penalty.

PROCEDURES

1. Administrative penalties

- 1.1. Where a detainee admits to a disciplinary breach and accepts the indicative penalty prior to hearing, the first Presiding Officer may impose the administrative penalty set out in the D11.F2: Charge notice.
- 1.2. The detainee must only receive the indicative administrative penalty set out in the D11.F2: Charge notice, and the first Presiding Officer must apply the penalty from the day the detainee agrees to the penalty.
- 1.3. When determining an appropriate and proportionate administrative penalty or combination of penalties, a Presiding Officer must consider:
 - a. the circumstances and seriousness of the breach
 - b. the detainee's behavioural record and length of sentence (if sentenced)
 - c. whether the detainee admitted to the charge
 - d. any disability, mental health condition, or other physical condition that may have been a contributing factor to the breach or which may be impacted by the proposed penalty
 - e. the interest in supporting the rehabilitation of the detainee
 - f. the need to maintain safety, security and good order in a correctional centre.
- 1.4. The Presiding Officer may issue the following administrative penalties, or a combination thereof, as an indicative penalty in the D11.F2: Charge notice or where a charge has been found to be proven in a hearing:
 - a. a verbal reprimand for committing the disciplinary breach
 - b. a written warning
 - c. a financial penalty of up to \$500
 - d. a withdrawal of privileges for up to 180 days
 - e. a requirement to perform up to two (2) weeks of extra work
 - f. separate confinement for 3, 7 or 28 days.

- 1.5. Where the breach has directly resulted in loss to any other person, the Presiding Officer may direct the detainee to make reparation, including by a payment not exceeding \$500.
- 1.6. Privileges include a wide range of opportunities generally available to detainees, including the following:
 - paid employment
 - participation in programs (not including those addressing criminogenic needs as part of a sentence management plan)
 - visits additional to the minimum entitlement
 - additional telephone calls and e-mail contact
 - access to recreation equipment and structured recreational activities
 - access to hobby and leisure activities
 - use of electronic devices including television and music players
 - purchases via buy-ups
 - private cash deposits to a detainee account to supplement institutional income.
- 1.7. As a general principle, privileges relating to employment or visits should only be withdrawn for discipline breaches directly relevant to those areas or for security or safety reasons. A detainee may be dismissed from their employment where the discipline breach relates to a breach of security or safety in the workplace.
- 1.8. Where a loss of privileges is imposed, the Presiding Officer must ensure that the practical effect of the penalty does not limit any minimum entitlements under Chapter 6 of the Corrections Management Act 2007 (ACT).
- 1.9. The Presiding Officer can consider any time spent in investigative segregation when determining a penalty of separate confinement. Time spent in investigative segregation must not be deducted from any period of separate confinement imposed as part of the disciplinary action against the detainee but can be taken into account when determining what disciplinary penalty is proportionate to the disciplinary breach.

For example: The Presiding Officer may choose a penalty of 3 days separate confinement rather than 7 days because of the number of days the detainee has already spent in investigative segregation.
- 1.10. Where a penalty of separate confinement is awarded, the Presiding Officer must ensure that the detainee is immediately taken to the authorised separate confinement location.
- 1.11. The Presiding Officer must ensure a D3.F2: Separate Confinement Authority is completed by the Area Manager.
- 1.12. Where a detainee has been charged with two (2) or more disciplinary breaches and the charges relate to the same conduct, the Presiding Officer must ensure that the total of any one kind of penalty imposed does not exceed the maximum that may be imposed for any one (1) of the disciplinary breaches.
- 1.13. Where a penalty is being applied following a charge having been found proven in hearing, the second Presiding Officer must explain the administrative penalty or penalties to the detainee in the hearing and ensure the detainee is provided with a hard copy and via email of the D11.F5: Hearing result within 24 hours of the disciplinary hearing.

2. Administering administrative penalties

2.1. The Investigating Officer must:

- a. notify the Business Services Unit of any financial penalty imposed
- b. notify the relevant unit or work supervisor and Detainee Employment Unit if extra work has been imposed or employment has been suspended or ceased. The business unit must case note the additional work given in the detainee's electronic record and notify the Investigative Officer when the work penalty is completed
- c. notify AMC Executive Support of any visits, detainee telephone or e-mail restrictions imposed
- d. notify the Detainee Programs Unit of the penalty imposed, where relevant
- e. notify the relevant Area Supervisors of any withdrawal of privileges
- f. notify the detainee's Sentence Management Officer
- g. record the penalty in the detainee's electronic record
- h. scan the *D11.F4: Hearing Report* into the detainee electronic record
- i. record the outcome in the Discipline Log.

3. Compliance and quality assurance

- 3.1. The Investigating Officer must provide a copy of the Discipline Log to the Team Leader, AMC Compliance Team via e-mail to AMCexecsupport@act.gov.au on the first Friday of each month.

RELATED DOCUMENTS AND FORMS

- Detainee Discipline Policy
- Detainee Discipline – Laying a Charge Operating Procedure
- Detainee Discipline – Hearings Operating Procedure
- Discipline Log
- D11.F4: Hearing Report
- D11.F5: Hearing result
- D11.F6: Hearing Review
- D3.F2: Separate Confinement Authority

Corinne Justason
Deputy Commissioner Custodial Operations
ACT Corrective Services
28 January 2022

Document details

Criteria	Details
Document title:	<i>Corrections Management (Detainee Discipline – Penalties) Operating Procedure 2022</i>
Document owner/approver:	Deputy Commissioner Custodial Operations, ACT Corrective Services
Date effective:	The day after the notification date
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Responsible Officer:	Senior Director Operations
Compliance:	This operating procedure reflects the requirements of the <i>Corrections Management (Policy Framework) Policy 2020</i>

Version Control			
Version no.	Date	Description	Author
V1	September -2021	First Issued	S Leedham