

	DEPARTMENT OF PUBLIC SAFETY CORRECTIONS ADMINISTRATION POLICY AND PROCEDURES	EFFECTIVE DATE: DEC 22 2009	POLICY NO.: COR.11.03
		SUPERSEDES (Policy No. & Date): COR.11.03 & 02/04/93	
	SUBJECT: PROTECTIVE CUSTODY MANAGEMENT		Page 1 of 8

1.0 PURPOSE

To establish guidelines for inmate placement in protective housing units, conditions of confinement and release.

2.0 REFERENCES AND DEFINITIONS

.1 References

- a. Hawaii Revised Statutes (HRS), Chapter 353C, Director of Public Safety, powers and duties
- b. American Correctional Association Standards for Correctional Institutions, 4-4251, 4-4253, 4-4254, 4-4259, 4-4260, 4-4270 and 4-4256.
- c. Departmental Policy and Procedures (P&P), COR.11.01, Inmate Segregation.
- d. Departmental P&P, COR.18.01, Inmate Classification.

.2 Definitions

Protective Custody – A form of separation from the general population for offenders requesting or requiring protection from other offenders. This type of segregation is non-punitive.

3.0 POLICY

- .1 Inmates who cannot be housed in general population without endangering their physical safety and well being, shall be afforded separate and secure housing.
- .2 The designated protective housing unit at the Oahu Community Correctional Center (OCCC) shall be responsible for providing protective confinement for pretrial offenders and jail inmates.
- .3 The designated protective housing unit at the Halawa Correctional Facility (HCF) shall be responsible for providing protective confinement for sentenced felons.

COR P & PM	SUBJECT:	POLICY NO.:
	PROTECTIVE CUSTODY MANAGEMENT	COR.11.03
		EFFECTIVE DATE: DEC 22 2009
		Page 2 of 8

- .4 Upon approval by the Director, protective housing may be established at other Department institutions. At the discretion of the Director, inmates requiring protective custody may be transferred to any facility within the Department to meet program objectives.

4.0 PROCEDURES

.1 Segregation Pending Verification of Need for Protective Custody

- a. As probable protective custody needs come to the attention of staff, or upon request for protective custody by an individual, the inmate shall be placed in administrative segregation pending verification of actual need for protective custody status.
- b. This segregation action shall be documented on form PSD 8226 (see attached), Segregation Action Request and sent to the facility Warden. Segregation from the general population under these circumstances may take place with or without the inmate's consent. Inmate requests for such status shall be documented on the Segregation Action Request.

.2 General Criteria for Protective Custody Placement

The following shall be used as general guidelines in determining placement or non-placement in protective housing.

a. Placement in Protective Custody

The following condition may warrant placement in protective housing:

- 1) An enemy situation clearly exists or there are reasons to believe they exist.
- 2) The inmate is awaiting investigation or trial for a heinous criminal act.
- 3) Offenders with notorious criminal activities on the outside who may be subject to pressure because of their notoriety.
- 4) Inmates who have become government witnesses, especially in capital or major drug cases.
- 5) An inmate's identified enemies are capable and likely to act with serious violence against the inmate and this capability exists in all

COR P & PM	SUBJECT: PROTECTIVE CUSTODY MANAGEMENT	POLICY NO.: COR.11.03
		EFFECTIVE DATE: DEC 22 2009
		Page 3 of 8

general populations where the inmate could be housed within the Department. An inmate's known associates could be considered potential enemies who by influence could constitute a serious threat.

b. Non Placement in the General Protective Custody Population

- 1) Inmates shall not be placed in the general protective custody population under the following conditions:
 - a) Inmates who have generalized fears and attempt to avoid general population housing by alleging unidentifiable enemies and / or unsubstantiated situations.
 - b) The inmate is an identified member or affiliate of a prison gang or pressure group.
 - c) The inmate presents a threat to themselves, staff or other inmates.
 - d) The inmate is a behavior management case.
 - e) Inmates who have been diagnosed as mentally ill.
- 2) Inmates in categories b), c) and d) above who do require or request protective custody shall be afforded that status but housed separately from the general protective custody population and allowed no contact at any time with that population.

.3 Verification of Need for Protective Custody Placement

- a. The need for protective housing shall be clearly established and shall be of such consequences as to preclude placement in the general population. Staff shall evaluate the protective custody need and identify the nature of the enemy situation, the extent and the reality of the need for protective housing.
- b. If appropriate, the case may be referred to the Facility Program Committee. The committee shall review and identify possible general population placements including placement at other correctional facilities within the Department. Protective housing shall be recommended when no other reasonable alternative exists. The committee shall document their acceptance or rejection, including reasons, on form PSD 8702 (see attached), Administrative Program Action. Form PSD 8702 shall be sent to

COR P & PM	SUBJECT: PROTECTIVE CUSTODY MANAGEMENT	POLICY NO.: COR.11.03
		EFFECTIVE DATE: DEC 22 2009
		Page 4 of 8

the facility Warden for review and approval. Upon approval for the action by the facility Warden, a copy of form PSD 8702 (see attached) shall be forwarded to the inmate and a copy placed in the inmate's case record.

.4 Placement Documentation

An inmate shall not be placed in protective custody without appropriate documentation which records the reasons why staff and the inmate feel protective custody status is necessary and the alternatives that were considered. Appropriate documentation includes one or more of the following, which shall be approved by the facility Warden.

- a. PSD 8226, Segregation Action Request form
- b. PSD 8701, Notice of programming form.
- c. PSD 8702, Administrative Program Action form.
- d. The appropriate initial classification or reclassification instrument for jails or prisons in accordance to Chapter 18 of the Corrections Administration Policies and Procedures Manual.

.5 Standards for Placement in Protective Housing

All sentenced felons requesting protective custody status shall be initially housed in Protective Housing Unit, at the HCF. All pre-trial and jail term custodies shall be housed at the OCCC. Female custodies shall be housed at the Women's Community Correctional Center unless otherwise designated in writing and approved by the Division Administrator.

a. Protective Housing Unit

Criteria for placement in protective housing includes, but is not limited to the following:

- 1) Inmates placed in protective housing must be compatible. Only those who can be housed, work, eat and use inside and outside recreation together without need for separation and protection from each other.
- 2) Inmates placed in protective housing shall have an institution history of non-violent behavior.

COR P & PM	SUBJECT: PROTECTIVE CUSTODY MANAGEMENT	POLICY NO.: COR.11.03
		EFFECTIVE DATE: DEC 22 2009
		Page 5 of 8

.6 Due Process

- a. Inmates involuntarily transferred to protective custody shall be entitled to an informal, non-adversarial evidentiary review by the facility Program Committee to determine whether they should be so confined. In such cases, the inmate shall receive a written notice of the charges or reason for confinement and a time when they may present their views orally or in writing to the Program Committee. Form 8701 (see attached), Notice of Programming shall be used for this purpose.
- b. Upon concurrence of the hearing results by the facility Warden, the inmate shall sign form PSD 8701 (see attached). A copy will be given to the inmate and one placed in the inmate's case record.
- c. Inmates who request protective custody are not entitled to a hearing or other due process protections.

.7 Classification

- a. The classification process for placement in Protective Housing Units shall adhere to the guidelines established in Departmental P&P COR.13.03 as well as the provisions of Department P&Ps concerning the Classification of Inmates.
- b. All inmates housed in the Protective Housing Units shall be assigned the custodial classification of close custody.
- c. All classification actions relevant to Protective Housing inmate moves shall be recorded on the appropriate classification instrument and noted on the individual's segregation housing log. (Section 4.12. below)

.8 Protective Housing Unit Capacity

- a. Unit capacity shall depend upon the area dedicated to the protective custody and the physical characteristics of the correctional facility. Protective housing must be separated as much as possible from the general population. The basic level of living conditions shall be the same as the conditions and privileges given to inmates in the general population. No restrictions shall be placed upon an inmate's contact with the courts. Recreation, (both inside and outside) visiting and correspondence privileges will be afforded to the inmates. Inmates shall be allowed to work within their unit or in sites that are

COR P & PM	SUBJECT: PROTECTIVE CUSTODY MANAGEMENT	POLICY NO.: COR.11.03
		EFFECTIVE DATE: DEC 22 2009
		Page 6 of 8

carefully screened and approved by the facility Warden.

.9 Access to Protective Housing Units

- a. Access to protective housing units shall be strictly limited to employees involved in the management, operation or utilization of the unit, those required to provide service and programming to inmates residing in protective custody and Department management staff.
- b. No inmate other than those residing in protective custody shall be allowed access to any protective custody unit.

.10 Conditions of Confinement

Inmates confined in protective custody shall receive all rights and privileges of their particular custody status outlined in Departmental P&P COR.11.01, Inmate Segregation.

.11 Records

Two permanent logs shall be maintained by protective housing staff: one, a record of all those who visit the unit; the other, a record on each individual housed within the unit. Consult Departmental P&P COR.11.01, Inmate Segregation, section 4.5i, for details on the content of these logs.

.12 Review

- a. The official or the committee that authorized placement in protective custody shall review the status of the individual at least every seven days for the first 30 days and every 30 days thereafter. The inmate shall attend these review meetings and be afforded the same rights available to inmates in initial segregation meetings. The official or committee shall provide the inmate with a written decision stating the reasons and basis for the decision as well as a summary of the information presented and considered at the hearing. Form PSD 8702, Administrative Program Action, shall be used to document the decision and notify the inmate. The facility Warden shall approve of the decision. A copy of PSD 8702 shall be filed in the inmate's case record.
- b. The inmate shall be notified in writing that they may appeal an administrative decision through the normal grievance process. This notice shall be made on form PSD 8702.

COR P & PM	SUBJECT: PROTECTIVE CUSTODY MANAGEMENT	POLICY NO.: COR.11.03
		EFFECTIVE DATE: DEC 22 2009
		Page 7 of 8

c. Each review shall include an evaluation of the following:

- 1) Original reason for segregation;
- 2) Disciplining record;
- 3) Past criminal record;
- 4) Psychological makeup;
- 5) Attitude toward authority;
- 6) Behavior on work assignments;
- 7) Adjustment to institutional programs;
- 8) Willingness and ability to live with other criminals;
- 9) Habitual conduct or language of a type that may provoke or instigate stressful or violent situations;
- 10) Alternatives or assistance that may be provided the inmate to hasten their return to the general population.

.13 Release

When the need for protective housing placement has been clearly resolved, the inmate shall be transferred to the appropriate general population via the classification process. Releases may be authorized when one or more of the following conditions exists:

- a. The condition, which required placement in protective custody, is no longer present. This may be due to information and / or evidence uncovered during the period of confinement.
- b. The inmate is found guilty of accused behavior by an adjustment committee and is transferred to a more restrictive unit as dictated by committee findings.
- c. The inmate requests transfer to the general population or other special program. However, the official or committee that authorized placement in protective custody must confirm that the move will not present a threat to the inmate.

.14 Unit Inspections

Inspections of protective custody operations shall be conducted on a periodic basis. The purpose of these inspections shall be to observe and evaluate the conditions of confinement and discuss individual program problems with the confined inmates. Inspections shall be conducted in accordance with the

COR P & PM	SUBJECT: PROTECTIVE CUSTODY MANAGEMENT	POLICY NO.: COR.11.03
		EFFECTIVE DATE: DEC 22 2009
		Page 8 of 8

following schedule:

- a. Watch Commander – A walk through at least once a shift.
- b. Health Care Official – A walk through at least once each day.
- c. Facility Warden – A walk through at least once a week.
- d. Chief of Security – A walk through at least once a week.
- e. Mental Health Official – Visit as requested by staff or inmate. In addition, a mental health official shall interview each inmate confined for more than 30 days and prepare a written report of evaluation and recommendation for the facility Warden.

.15 Temporary Removal from Protective Custody

An inmate who causes serious disruption (threatening life or property) in protective custody and cannot be controlled within the physical confines of protective custody unit may be moved temporarily to another administrative segregation type unit pending a hearing or other resolution. A temporary move shall not exceed three days. A fully documented report of the reasons for the move shall be forwarded to the facility Warden.

.16 Special Problem Inmates

Inmates who are classified as maximum custody but requires protective custody shall not be housed with the general protective custody population. They shall be confined in a single cell within an appropriate restrictive unit. The conditions of confinement and supervision shall be consistent with their custody status.

5.0 SCOPE

This policy applies to all correctional facilities.

APPROVAL RECOMMENDED:



Deputy Director for Corrections

12/15/09

Date

APPROVED:



Director

12/22/09

Date

**STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY**

SPECIAL CASE

Date: _____ Time: _____

Inmate/Ward: _____

Current Housing Unit: _____

Referred by: _____

Referred to Housing Unit: _____

Conditions which Promoted Segregation Action:

Reasonable Cause/Threat to:

- 1) Life or Limb
- 2) Security or good government of facility
- 3) Community

Degree of Severity:

- First
- Second
- Third

SPECIAL CASE

Inmate/Ward Written Consent for Segregation:

I, _____, request and consent to assignment to protective custody segregation effective _____.

Watch Captain

Signature of Inmate

Date

Date

Inmate/Ward Written Request for Suspension of Segregation:

I, _____, request suspension of assignment to protective segregation effective _____.

Watch Captain

Signature of Inmate

Date

Date

Statement of Action Taken:

Facility Administrator

Date

**STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
CORRECTIONS DIVISION
NOTICE OF PROGRAMMING**

Facility: _____

Name Number

You are herein informed that your correctional program is scheduled to be heard by an administrative committee. You are to be present at:

_____, at _____ on the _____
(Location) (Time) (Date)

Reason for hearing:

You may may not retain legal counsel for the hearing.

Committee Chairman

RECEIPT OF NOTICE:

I acknowledge receipt of the above notice. I understand that I have a right to 24-hour notice prior to the hearing. (If given less than 24 hours, by signing this receipt I am waiving my right to the 24-hour notice.)

(Date) (Time) Signature: _____
(Inmate)

=====

RESULTS OF HEARING: (Summary)

Committee Chairman Date

I have reviewed the committee's findings and hereby: approve reject hold in abeyance in whole
in part , their recommendation.

Administrator Date

You have the right to seek administrative review of the decision through the grievance process within 14 calendar days from receipt of the final decision.

Receipt of results: Date _____ Signature: _____
(Inmate)

INMATE ACTIVE FILE