

103 CMR: DEPARTMENT OF CORRECTION

103 CMR 423.00: SPECIAL MANAGEMENT

Section

- 423.01: Purpose
- 423.02: Authorization
- 423.03: Cancellation
- 423.04: Applicability
- 423.05: Access to Regulations
- 423.06: Definitions
- 423.07: Establishment of Special Management Units
- 423.08: Placement, Review and Release Procedures
- 423.09: Conditions of Confinement
- 423.10: Control and Management
- 423.11: Responsible Staff
- 423.12: Review Date
- 423.13: Severability Clause

423.01: Purpose

103 CMR 423.00 establishes Department of Correction regulations concerning special management units.

423.02: Authorization

103 CMR 423.00 is issued pursuant to M.G.L. c. 124, § 1 (c) and (q). 103 CMR 423.00 is not intended to confer any procedural or substantive rights not otherwise granted by state or federal law, nor any private cause of action.

423.03: Cancellation

103 CMR 423.00 cancels all previous departmental policy statements, bulletins, directives, orders, notices, rules and regulations regarding institution special management units.

423.04: Applicability

103 CMR 423.00 applies to those institutions either operating special management units designated by the superintendent of the institution or otherwise housing inmates on administrative segregation, protective custody, or disciplinary detention status. 103 CMR 423.00 does not apply to inmates housed in a departmental segregation unit or a department disciplinary unit.

423.05: Access to Regulations

103 CMR 423.00 shall be maintained within the Department of Correction's central policy file, in each institution's central policy file, in each institution's inmate law library, and may be made available to the public upon request.

423.06: Definitions

Administrative Segregation: A temporary form of separation from general population used when the continued presence of the inmate in the general population would pose a serious threat to life, property, self, staff or other inmates, or to the security or orderly running of the institution, *e.g.*, inmates pending investigation for a disciplinary or criminal offense or pending transfer may be placed in administrative segregation.

Director of Security: The individual responsible for the overall security within a correctional institution through formulation and enforcement of rules and regulations and by overseeing the performance of security staff.

423.06: continued

Disciplinary Detention - As referenced in M.G.L. c. 127. § 40 as isolation; Disciplinary Detention is the separation from the general population of an inmate who has been found guilty of a serious violation of the regulations. Such sanction shall not exceed 15 days for one offense and no more than 30 days for all violations arising out of the same or substantially connected incident(s), unless specifically authorized by the commissioner. This status may be imposed only after complying with all provisions of 103 CMR 430.00: *Disciplinary Proceedings*. Disciplinary detention does not refer to inmates sentenced to a department disciplinary unit.

General Population: Any housing area other than a special management unit, health service unit, departmental segregation unit, departmental disciplinary unit, or the departmental protective custody unit.

Protective Custody: A form of separation from the general population for inmates requesting or requiring protection from other inmates for reasons of health or safety. The inmates status is reviewed periodically by the classification committee or designated group with the goal of terminating the separate housing assignment as soon as possible.

Special Management Unit: A separate housing area from general population within institutions in which inmates may be confined for reasons of administrative segregation, protective custody, or disciplinary detention.

Shift Commander: That officer designated by the superintendent to be responsible for the supervision of all subordinate custodial staff and the care and custody of inmates during an assigned tour of duty.

Superintendent: The chief administrative officer of a correctional institution.

423.07: Establishment of Special Management Units

Each superintendent of an institution with a security rating level of 4, 5 or 6 may designate an area or areas within the institution to be used for housing inmates placed into:

- (a) Administrative Segregation
- (b) Protective Custody
- (c) Disciplinary Detention

423.08: Placement, Review and Release Procedures

Each Superintendent shall develop procedures regarding the placement, review and release of inmates in special management units.

(1) Assignment to Administrative/Protective Custody Segregation and Protective Custody. An inmate may be placed in administrative segregation by the commissioner or his designee, or superintendent, or his designee, *e.g.*, disciplinary officer, shift commander, or members of an inmate's unit team. Placement in administrative segregation/protective custody may occur in instances such as, but not limited to, when an inmate:

- (a) Is awaiting a hearing for a violation of institution rules or regulations;
- (b) Is awaiting an investigation of a serious violation of institution rules or regulations;
- (c) Is pending investigation for disciplinary offenses or criminal acts that may have occurred while incarcerated;
- (d) Requests admission to administrative segregation for his/her own protection or staff recommends that placement in or continuation of such status is necessary for the inmate's own protection and that no reasonable alternatives are available;
- (e) Is pending transfer;
- (f) Is pending classification;
- (g) Is placed in administrative segregation following a disciplinary hearing.

(2) Review of administrative segregation and protective custody inmates.

- (a) Inmates will have a physical screening by health care staff prior to being placed into a special management unit on administrative segregation or protective custody status or immediately after arrival in the special management unit.

423.08: continued

(b) The status of each inmate placed in a special management unit on administrative segregation or protective custody status should initially be reviewed by the superintendent or designee within 72 hours of placement. Thereafter, each inmate's status should be reviewed every seven days for the first two months and at least every 30 days thereafter by a classification committee or other authorized group.

(c) Inmates with long-term protective custody needs should be reviewed, and where appropriate, classified to a departmental protective custody unit. After classification to a departmental protective custody unit, an inmate's placement shall be reviewed in accordance with 103 CMR 420.00: *Classification*.

(d) A qualified mental health professional shall personally interview and prepare a written report on any inmate remaining for more than 30 days in administrative segregation or protective custody status. If such confinement continues, a psychological assessment shall be made at least every 90 days thereafter - more frequently if prescribed by the chief medical authority.

(3) Placement in Disciplinary Detention. An inmate may be placed in disciplinary detention only after being found guilty of a serious violation of regulations. Disciplinary detention shall not exceed 15 days for any one offense and no more than 30 days for all violations arising out of the same or substantially connected incident(s), unless specifically authorized by the commissioner, and only after complying with all provisions of 103 CMR 430.00: *Disciplinary Proceedings*.

(4) Review of Disciplinary Detention Status. The superintendent shall designate such person(s) as he deems appropriate to review the status of inmates housed on disciplinary detention on a weekly basis.

A qualified mental health professional shall interview and prepare a written report on any inmate remaining in disciplinary detention for more than 30 days. If such confinement continues, a psychological assessment shall be made at least every 90 days thereafter - more frequently if prescribed by the chief medical authority.

#### 423.09: Conditions of Confinement

(1) Administrative Segregation/Protective Custody. Each superintendent shall develop procedures for the conditions of confinement of all inmates housed in special management units.

(a) Personal Items: Inmates should, as far as reasonably practicable, be provided clothing that is comparable to that permitted in population. Property will be restricted to what is permitted in 103 CMR 403.11, Approved Inmate Personal Property - Transient with the exception of a cigarette lighter that is prohibited. In addition, each inmate will be permitted a radio. The superintendent is authorized to further limit the amount of property and to issue jumpsuits in lieu of such clothing for security purposes, if there is imminent danger that an inmate or inmates will destroy an item, or induce injury to self or others.

(b) Personal Hygiene: Inmates shall have the opportunity to shave and shower at least three times per week. Additionally, all inmates shall be issued an allowed exchange of clothing, bedding, and linen, and provided laundry, barbering, and hair care services on the same basis as general population. Exceptions shall only be permitted when found necessary by the supervising officer on duty, and shall be recorded in the unit log and justified in writing.

(c) Meals: All inmates shall receive the same meals as those served to the general population unless being placed upon alternate feeding. Alternative meal service may be provided to an inmate in a special management unit who uses food or food service equipment in a manner that is hazardous to self, staff, or other inmates. Alternative meal service is provided on an individual basis, based on health or safety considerations only, meets basic nutritional requirements, and occurs with the approval of the superintendent and responsible health authority. The substitution period shall not exceed seven days.

(d) Mail: All inmates shall be provided the same opportunities for writing and receipt of letters as is available to the general population.

(e) Visitation: Inmates shall normally have opportunities for visitation similar to general population unless articulable reasons for withholding such privileges exist. The length and number of visits may be limited due to space, schedules, personnel constraints or when there is a substantial reason to justify limitation.

(f) Legal Material: All inmates shall have access to legal materials and legal reference material.

423.09: continued

- (g) Reading Material: Inmates shall have access to reading materials and the opportunity to borrow reading materials from the institution library.
- (h) Exercise: All inmates shall receive one hour of exercise per day outside their cells, five days per week, unless security or safety considerations dictate otherwise.
- (i) Telephone Access: Inmates shall be allowed telephone privileges in accordance with institutional procedure. Superintendents may set limits on the permitted number of telephone calls.
- (j) Programs: Inmates shall receive the services of a correctional program officer. Inmates may participate in such educational vocational and/or rehabilitative programs as can be provided within the confines of the special management unit, consistent with the security needs of the unit. Emphasis shall be placed on making rehabilitative programming available which has as its goal the return of persons to the general prison population. The institutional chaplain(s) shall visit special management units weekly. Programs may be limited to those inmates who have been or are likely to be confined on a long term basis.
- (k) Canteen: Inmates may order stamps, cosmetics and legal supplies from the canteen. These items may be withheld if the institution's director of security determines that they pose a threat to the security of the special management unit.
- (l) Medical Services: All inmates shall receive visits from a member of the health services unit daily, unless medical attention is needed more frequently. All inmates in need of prescribed medications and/or therapeutic diets, as approved by health service staff, shall be provided such.

(2) Disciplinary Detention. Each Superintendent shall develop procedures for the conditions of confinement of all inmates housed on disciplinary detention status in special management units.

- (a) Personal Items: Inmates shall be provided clothing that is comparable to that permitted in population. Property will be restricted to what is permitted in 103 CMR 403.00 *et seq.* Approved Inmate Personal Property - Transient with the exception of a cigarette lighter which is prohibited. Inmates will not be permitted a television or radio. The superintendent is authorized to further limit the amount of property and to issue jumpsuits in lieu of such clothing for security purposes, if there is imminent danger that an inmate or inmates will destroy an item, or induce injury to self or others.
- (b) Personal Hygiene: Inmates shall have the opportunity to shave and shower at least three times per week. Additionally, all inmates shall be issued an allowed exchange of clothing, bedding, and linen, and provided laundry, barbering, and hair care services on the same basis as general population. Exceptions shall only be permitted when found necessary by the supervising officer on duty, and shall be recorded in the unit log and justified in writing.
- (c) Meals: All inmates shall receive the same meals as those served to the general population unless being placed upon alternate feeding. Alternative meal service may be provided to an inmate in a special management unit who uses food or food service equipment in a manner that is hazardous to self, staff, or other inmates. Alternative meal service is provided on an individual basis, based on health or safety considerations only, meets basic nutritional requirements, and occurs with the approval of the superintendent and responsible health authority. The substitution period shall not exceed seven days.
- (d) Mail: All inmates shall be provided the same opportunities for writing and receipt of letters as is available to the general population.
- (e) Visitation: Inmates on disciplinary detention shall only be allowed visits from their attorneys/paralegal assistants unless otherwise authorized by the superintendent. The length and number of visits may be limited due to space, schedules, personnel constraints or when there is a substantial reason to justify limitation.
- (f) Legal Material: All inmates shall have access to legal materials and legal reference material.
- (g) Reading Material: Superintendents may limit access to and/or the amount of reading materials made available to inmates on disciplinary detention status.
- (h) Exercise: All inmates shall receive one hour of exercise per day outside their cells, five days per week, unless security or safety considerations dictate otherwise.
- (i) Telephone Access: Inmates shall receive only limited use of the telephone for emergency calls and calls to the attorney of record in connection with prospective or pending litigation. Procedures shall specify hours of availability, length of calls, and limitation that apply.

423.09: continued

- (j) Programs: Access to programs while on disciplinary detention shall be prohibited unless remaining on such status for over 60 days.
- (k) Canteen: Canteen purchases shall be restricted to cosmetic items only. Superintendents may restrict the amount and type of cosmetic items purchased.
- (l) Medical Services: All inmates shall receive visits from a member of the health services unit daily unless medical attention is needed more frequently. All inmates in need of prescribed medications and/or therapeutic diets, as approved by health service staff, shall be provided such

423.10: Control and Management

Each superintendent whose institution contains a special management unit shall establish written procedures governing the following:

- (1) Personnel Selection, Training, and Evaluation. Procedures shall govern the selection criteria, supervision, and rotation of staff who work directly with inmates in a special management unit on a regular daily basis.
- (2) Records. Procedures shall establish permanent logs and for documentation of all activities and events including, but not limited to: admissions and releases, unit visitors, unusual events, inmates' opportunities for showering, out of cell exercise, and telephone access, and deprivation of any usually authorized items or privileges of an inmate. In the latter mentioned instance, any such deprivation of a usual item or activity shall require that a report be filled out and sent to the director of security or designee and to the inmate's case folder.
- (3) Supervision.
  - (a) Procedures shall require that all inmates on administrative segregation, protective custody or disciplinary detention status are personally observed by correctional staff at least every 30 minutes, on an irregular schedule, unless their behavior requires more frequent observation.
  - (b) Procedures shall require daily tours of inspection by the shift commander or designee and the logging of times and results of such inspections.
  - (c) Procedures shall require that inmates on protective custody or administrative segregation status receive visits from program staff upon request.
- (4) Safety. Procedures shall provide for the safe evacuation of all inmates in the event of a fire or other emergency.
- (5) Cell Furnishings and Fixtures. Procedures shall require supplying each cell in which an inmate is housed with a bed, table, chair/stool, one blanket, two sheets, one pillow and one pillow case. Additionally, procedures shall be established listing personal items authorized for retention in inmates' cells according to status.
- (6) Security and Control.
  - (a) Movement Within The Unit. Procedures shall provide for when inmates may be released from their cells and how they are supervised, the number of inmates to be permitted out of their cells at any one time, and the visitation of inmates.
  - (b) Searches and Seizures. Procedures shall provide for searching an inmate or his cell, frequency of searches conducted, searching of clothing, laundry or other property, and for the storage of any property of the inmate which is confiscated as a result of a search.
  - (c) Security Inspection. Procedures shall provide for security inspections to occur at the frequency of once per shift for the entire unit.

423.11: Responsible Staff

- (1) The director of policy development and compliance shall be responsible for implementation of this policy and for the review of all institutional procedures.
- (2) Each superintendent shall develop all necessary procedures in accordance with this policy and shall ensure that institutional practice conforms to these directives.

103 CMR: DEPARTMENT OF CORRECTION

423.12: Review Date

103 CMR 423.00 shall be reviewed annually from the effective date by the director of policy development and compliance.

423.13: Severability Clause

If any article, section, subsection, sentence, clause or phrase of 103 CMR 423.00 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of 103 CMR 423.00.

REGULATORY AUTHORITY

103 CMR 423.00: M.G.L. c. 124, § 1(c) and (q).