



SJ 25 STUDY: CORRECTIONS POLICIES AND STATE PRISON PROCEDURES RELATED TO LOCKED HOUSING

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CORRECTIONS POLICIES AND STATE PRISON PROCEDURES RELATED TO LOCKED HOUSING

INTRODUCTION AND BACKGROUND

As requested by the 2017 Legislature in Senate Joint Resolution 25 (SJ 25), the Law and Justice Interim Committee (LJIC) is studying the extent of solitary confinement in Montana. This paper reviews the contents of Department of Corrections (DOC) policies that generally govern the use and practice of locked housing in Montana prisons and the contents of Montana State Prison (MSP) procedures that apply to locked housing practices in that facility. The DOC does not operate or control county detention centers, so this discussion does not extend to inmates in those facilities.

Defining Terms

Although the SJ 25 resolution uses the term “solitary confinement,” this paper will use “locked housing” generally to refer to the practice of removing a prisoner from the general prison population and confining the prisoner to a cell for the majority of the hours of the day with restricted movement, activities, or contact with other individuals. “Locked housing” is the term used by the DOC in its policy directives and by the MSP in its operational procedures. This paper uses “offender” and “inmate” interchangeably to refer to an individual held in secure custody in prison.

What Are Policies and Procedures?

The Montana DOC adopts policy to “meet statutory obligations, promote professionalism, and ensure consistency and operational compliance in fulfilling the purpose and mission of the Department.”¹ Policy development is handled by the DOC Quality Assurance office in the central DOC office, while procedures are developed by divisions, facilities, or programs. Policies and procedure topics range widely and include how staff is to be trained and evaluated, how programs and facilities are to be operated, and how offenders are to be managed.

The DOC defines a policy directive as “a Department of Corrections internal management document that provides the standards by which Department divisions, facilities, and programs will operate.” Policies provide the broader umbrella of how the department conducts its activities and provides services. A procedure fits in under any broad policy umbrella and is a more specific document often developed for a particular corrections facility or program to “provide staff with direction on how to implement a Department policy, required action, or program.” For example, the Montana State Prison develops procedures to flesh out additional details not contained in a more general policy directive. The Probation and Parole Division also maintains procedures to guide the work of its staff. Policies guide procedures, and both are put into effect by the actual practices of DOC staff and contractors as they work each day with offenders.

Policies are constantly being revised through a standard process. Most policies are publicly available at the DOC’s website. However, public access to some policies can be restricted for individual privacy interests, public safety, or the security of

¹ The quotes, definitions, and general information about policies and procedures in this section are taken from the following policy directive, unless otherwise noted. “Policy Management System,” DOC 1.1.2, revised July 27, 2015, available from www.cor.mt.gov/Portals/104/Resources/Policy/Chapter1/1-1-2%20Policy%20Management%20System%2007_27_15.pdf, last accessed Nov. 1, 2017.

public facilities, such as jails and prisons.² Although the Quality Assurance Program typically updates a policy index on the DOC website to ensure the public has access to those documents, any policies provided directly by DOC staff supersede the versions available on the Internet.³

Limitation

Although this paper can review the written policies and procedures, evaluating actual practices is more difficult given the number of facilities and countless actions and interactions that occur when policies and procedures are put into practice by staff. To gain a better understanding of actual practices in Montana prisons and locked housing units, the LJIC can solicit information from stakeholders, including department staff and contractors, offenders and their families, organizations that advocate for inmates, and experts in the study of prisons and confinement conditions.

DOC POLICIES AND MSP PROCEDURES RELATED TO LOCKED HOUSING

An interconnected web of department policies and procedures describes the expected living conditions experienced by inmates in a locked housing unit and the services or programs available to those inmates. Not every referenced policy or procedure is completely specific to locked housing practices. However, when examined in combination with each other, they provide detail and structure to the DOC's inmate housing practices. The policies generally apply to state-run and contracted facilities, though each policy has a specific applicability section that lists the extent of its reach.

The policies and related procedures examined for this report are listed in Table 1. The procedures described in this report are those adopted by the Montana State Prison. Electronic copies of the policies and procedures are available on the DOC's website. A hyperlink to the website can be found in the [Resources section](#) of this report and also on the LJIC web page for the SJ 25 study. In addition, the policies and procedures related to locked housing units and institution discipline are included at the end of this report.

² See, generally, section 2-6-1003, MCA, www.leg.mt.gov/bills/mca/title_0020/chapter_0060/part_0100/section_0030/0020-0060-0100-0030.html.

³ "Department of Corrections Policies," Montana Department of Corrections, available from www.cor.mt.gov/Policy, last accessed Nov. 1, 2017. To ensure that this paper incorporated the most recent policies and procedures, legislative staff emailed DOC staff a list of the documents used and the date of the last update. The paper can be updated if new versions become available.

Table 1: Policies and Procedures Related to Offenders in Locked Housing Units

General Subject	Related DOC Policy (Revision Date)	Related MSP Procedure(s) (Revision Date)
Discipline (offender and institutional)	DOC 3.4.1: Offender Disciplinary System (9/9/2016)	MSP 3.4.1: Institutional Discipline (1/4/2017) MSP 3.4.100: Pre-hearing Confinement (9/27/2004)
Locked housing units	DOC 3.5.1: Locked Housing Unit Operations (9/9/2016)	MSP 3.5.1: Locked Housing Operations (10/25/2013)
Behavior management plans	DOC 3.5.5: Behavior Management Plans (6/15/2009)	MSP 3.5.5: Behavior Management Plans (2/27/2013)
Offender classification	DOC 4.2.1: Offender Classification System (2/22/2012) DOC 4.2.2: Special Needs Offenders (2/22/2012)	MSP 4.2.1: Inmate Classification System (11/12/2013) MSP 4.2.200: Special Management of Atypical Inmates (10/16/2000) MSP 4.2.202: Inmate Separation Needs (11/21/2013)
Locked housing health assessments and services	DOC 4.5.21: Locked Housing Offender Health Assessment and Services (3/21/2016)	

Locked Housing Units

The DOC policy and the MSP operational procedures on locked housing are both provided at the end of this document.⁴

DOC Policy

The DOC’s policy on locked housing unit operations is contained in policy number DOC 3.5.1: “The Department of Corrections maintains safe, secure housing for offenders who require separation from the general offender population for protection, detention or special management.”

This policy applies to all state-run and contracted adult secure care facilities (prisons), including private and regional facilities. Additional policies also apply to secure care youth facilities. Those additional policies are discussed further in the section specific “Specific Provisions Pertaining to Youth” starting on [page 12](#).

Locked housing is defined in the policy as cells designated for four specific, defined housing statuses:

⁴ Although the Locked Housing Unit Operations policies and procedures are listed after the Discipline topic in Table 1, this paper reviews them before the other policies and procedures because they are more specific to the SJ 25 study topic and also provide context to the other related policies.

- administrative segregation, which is a nonpunitive status for offenders who cannot be housed in the general population because they pose threats to “life, property, self, staff, or other offenders, or to the facility’s security or orderly operation”;
- disciplinary detention, which is a punitive housing status for offenders who have committed a serious violation of the facility rules and have been placed in confinement after a due process hearing;
- prehearing or temporary confinement, which is a nonpunitive housing status used for a short time to “safely and securely control high-risk or at-risk” offenders;
- special management, which is a nonpunitive housing status for offenders who have requested they be removed from the general population for safety and well-being.

The definition of locked housing also includes that it can be used for “maximum security offender housing.” Although that housing status is not further defined in DOC 3.5.1, it is discussed in the MSP procedure on inmate classification, which is reviewed on [page 10](#).

The policy elements require that more detailed operational procedures adopted by facilities incorporate standards issued by the American Correctional Association (ACA) and that those procedures should be written. The policy also states that an inmate may be placed in segregation or lockdown on the order of a facility’s administrator or a shift supervisor and that the order must be reviewed by a supervisor within 72 hours, excluding weekends. The administrator must also review and approve each offender placement that lasts beyond 30 days. In addition, each facility must maintain a list of sanctions for rule violations. For the MSP, this list is contained a procedure on institutional discipline, which is reviewed on [page 6](#).

Operational procedures created by facilities must also provide for how inmates are placed in locked housing and how those placements are reviewed. Specifically, the facility’s procedures must create a documented process for admission to the unit, including that “reasonable alternatives” were not available, and also for release from administrative segregation or special management. Every 30 days, either a classification committee or a staff group must review an offender’s placement in administrative segregation or special management. Before an offender may be placed in locked housing for disciplinary detention as the result of a rule violation, the offender must have a hearing by a disciplinary committee or a hearings officer. If the disciplinary detention exceeds 60 days, the offender must be given the same program services and privileges as offenders in administrative segregation or special management.

Offenders in the locked housing units must be “seen and assessed” at least once a week by a qualified mental health professional. The assessment will be documented in the offender’s written log, including the date, time, and report on the offender. Those logs are kept with the offender’s medical and mental health records. In addition to the weekly visits from a qualified mental health professional, an offender in locked housing must receive daily visits from a supervisor and a qualified health care professional, though more frequent visits can occur if needed. The policy also covers observation schedules for offenders in special management and how to supervise suicidal offenders.

In terms of conditions in the locked housing unit, the policy requires that an offender receive at least 1 hour a day of exercise outside the cell at least 5 days a week. If safety or security concerns exist, an offender can be denied this amount of out-of-cell exercise, as can an offender who is in disciplinary detention or prehearing confinement for 15 days or less. Offenders must receive prescribed medications, clothing, access to basic personal items, the opportunity to shower and shave at least three times a week, laundry and hair care services, and access to clean clothing and bedding on the same schedule as offenders in regular housing. Exceptions in some of these categories can be made if the reasons for it are documented in writing. The policy provides specifics about when exceptions can be made, but typically it is when the offender is using something inappropriately or in a way that poses a threat to the safety of staff, the inmate, or other inmates or for a security reason.

Inmates in locked housing may correspond in writing, receive visits, and access legal materials and reading materials. Visitation privileges may be withheld if there are “substantial reasons” for doing so. For offenders in administrative segregation and special management units, procedures must allow them to access various programs and services, such as educational, religious, counseling, or social services, though the access and services might not be exactly the same as those offered to inmates in the general population. However, the policy does require that there cannot be “major differences” between the services offered unless the difference is due to a “danger to life, health, or safety.”

MSP Procedure

The MSP’s operational procedure on locked housing is contained in procedure number MSP 3.5.1. The purpose of the procedure is “to maintain safe, secure, locked housing for inmates who require a high degree of physical control by virtue of being charged with serious rule violations, or who must otherwise be removed from the general population for safety, security and/or behavioral reasons.”

The operational procedure provides details on how the facility will meet the requirements of the DOC policy on locked housing units. It includes references to various ACA standards for adult correctional institutions and DOC policies. Also included in the procedure are examples of log forms for water usage, inventory of personal property, and exercise.

The procedures are split into multiple categories that govern:

- how inmates are released from locked housing, which is according to the procedure number MSP 4.2.1, the classification procedure reviewed on [page 10](#);
- the conditions of confinement, which are more detailed than the policy in terms of the physical structure of the inmate’s cell and procedures when the water supply to the inmate’s cell is restricted;
- general operating procedures, such as how often staff must observe the inmates and log those checks and who is allowed to work in the locked housing units;
- the physical security features of the locked housing units, cell blocks, and individual cells;
- items the inmates are allowed or prohibited to have in locked housing;
- programs available to inmates and how exceptions to these procedures must be documented;
- several miscellaneous considerations, including when and how classification reviews happen (at least every 30 days and that the inmate is allowed to be present at the review), the use of television monitors to supervise inmates, and how the staff will respond to assaulting another person or threatening another person with bodily harm;
- food that will be provided to inmates;
- how unit staff must be selected and trained, including that a correctional officer must have at least 6 months of experience before being assigned to a locked housing unit; and
- how health and well-being visits will be conducted and documented.

Discipline

The DOC policy and the MSP operational procedures on discipline that are discussed in this section are included in full at the end of this report.

DOC Policy

The DOC’s policy on the offender disciplinary system is contained in policy number DOC 3.4.1:

“The Department of Corrections maintains offender rules of conduct, sanctions, and procedures for dealing with violations which are defined in writing and communicated to all offenders and staff. Disciplinary procedures are

intended to hold offenders accountable for misconduct while incarcerated, to be acted on promptly, and carried out with respect for due process.”

The policy applies to all department divisions, facilities, and programs, including those operated by the DOC or by contractors. It requires that disciplinary procedures that are developed reflect ACA standards and impose penalties that are “fair, reasonable, and consistent with the severity of the violation.” This includes that rule violations which are also a crime can be referred to the appropriate criminal justice entity for further prosecution.

Facility discipline procedures must include written rules of conduct for offenders that include specific information on prohibited acts, possible penalties, and disciplinary procedures. The rules, penalties, and procedures must be reviewed annually and provided to offenders in writing. Facilities must document that the offender received the disciplinary material and must train staff on the rules and penalties.

The policy also includes guidance on the processes facilities will use to handle minor infractions, investigate violations, issue disciplinary reports, and schedule and conduct disciplinary hearings. It requires that procedures allow offenders to appeal disciplinary decisions and provides the standards by which those appeals will be reviewed.

MSP Procedure

The MSP’s operational procedure on institutional discipline is contained in procedure number MSP 3.4.1. The purpose of the procedure is “to implement an inmate disciplinary system that serves to maintain order in the facility and protect the public, inmates, and staff through the impartial application of a fully developed, well-understood set of rules, regulations, and hearing procedures that incorporate all applicable due process requirements.”

This operational procedure sets out how the prison staff will identify, investigate, and respond to offenders who violate prison rules. It covers both major and minor infractions, each of which are listed in a detailed attachment to the procedure. A minor infraction “does not have serious inmate and institutional management implications.” Examples of minor infractions include undocumented tattoos, failing to follow verbal instructions or safety or sanitation regulations, horseplay, and violation of visiting rules, among others. A major infraction is a violation that “in the judgement of the investigating staff member, is considered more serious than a minor infraction,” up to and including violations that might also violate state or federal laws. Examples of major infractions include rape, sexual assault, or sexual abuse, setting a fire, fighting, conspiring or assisting another inmate’s self-harm/suicidal behavior, or deliberate misuse of authorized medication, among others. Certain major infractions require the staff to place the inmate in prehearing confinement unless a written exception is placed in the offender’s file.

The procedure requires staff to implement progressive discipline to respond to violations and encourages them to use informal responses for minor infractions. Responses range from a verbal warning issued by staff to a formal hearing conducted by a staff member uninvolved in the incident. The prison has a sanctions grid to guide responses. Three types of progressive discipline are outlined in the procedure:

- informal resolution, which is a verbal communication and does not require a written citation to correct the problem;
- immediate corrective guidance, which is a sanction from the disciplinary grid that is imposed by a staff member who views a violation. The staff member must record the sanction in a log, but no further written report is required nor is a hearing conducted. Restriction to the cell or from activities for a specific, short period of time, an apology, a written assignment, or a verbal warning are all examples on the grid of this type of discipline.
- rule infraction citation, which can be either a summary action citation or a disciplinary infraction report. The summary action citation is “a mutual agreement entered into by a staff member who discovers contraband, and an inmate to dispose of the contraband.” The disciplinary infraction report is for more serious violations that the staff feels

cannot be resolved by the informal options. Specific information must be included in the report, and it triggers the requirement for a hearing to be conducted.

Not all violations that result in a disciplinary report and hearing require the inmate to be placed in prehearing confinement with reduced privileges from the typical locked housing unit allowances. Time spent in prehearing confinement may be credited against any detention given as discipline.

If the inmate is placed in a prehearing confinement cell, the warden or the warden's designee must review the placement within 1 day (excluding holidays and weekends). If an inmate is placed in prehearing confinement, the inmate must be given the infraction report within 24 hours and the disciplinary hearing must be conducted within 72 hours (excluding weekends and holidays). The typical time for infractions when the inmate is not placed in prehearing confinement is 6 working days to receive the report and for the hearing to be conducted within 7 working days of the time the infraction was written.

Processes for inmates to appeal hearing decisions and for a review of major infractions by the prison warden or the warden's designee are also described in the discipline procedure, as well as initial and ongoing training requirements for prison staff on its contents and proper use.

A related operational procedure on prehearing confinement is contained in procedure number MSP 3.4.100. The policy contained in this procedure is that “an inmate may be temporarily isolated from other inmates for safety, security, or other legitimate correctional interests.”

This procedure contains some of the same information as the disciplinary procedure, such as the timeline for conducting a disciplinary hearing when an inmate has been placed in prehearing confinement. It also contains further criteria for when an inmate may be placed in prehearing confinement. Those include but are not limited to:

- the inmate being at risk of serious harm and time being needed to evaluate the threat and consider appropriate responses;
- the inmate posing an immediate risk of harm to others or escape;
- the need to maintain or restore security or ensure safety following a fight or other type of disturbance;
- the need to facilitate an investigation into a criminal act or into a classification change;
- the need to protect a legitimate correctional interest.

Behavior Management Plans

DOC Policy

The DOC's policy on behavior management plans is contained in policy number DOC 3.5.5: “The Department of Corrections maintains a comprehensive strategy to manage and end an offender's repeated dangerous and/or assaultive conduct. Behavior management plans address chronic, serious behavior problems not associated with serious mental illness.”

The policy applies to adult secure care facilities operated by the department or under contract with the department. It outlines general provisions related to the makeup and required parts of a behavior management plan (BMP), how the BMP is initiated and then activated, mental health reviews required before and during the time an offender is on a BMP, and the duties of a review committee.

A BMP is defined in the policy as “a standardized plan on which facility staff place an offender to end the dangerous and/or assaultive conduct.” The terms “assaultive conduct” and “dangerous conduct” are also defined in the policy along with

examples of the type of behaviors that would qualify as dangerous or assaultive. Examples include attacks on other individuals (physically or by throwing bodily substances or fluids), behavior that threatens the security or operation of the facility, sexual misconduct, or “self-injurious conduct that is not the result of serious mental illness.”

The policy notes that BMPs “are not punishment but are used as the last resource” for staff to control an inmate’s behavior. It lists the “essential elements” of a standardized plan, including:

- documentation of the inmate’s behavior;
- examples of appropriate behavior that is the goal of the plan;
- specific actions staff will take under the plan to help the inmate achieve appropriate behavior;
- the date the plan begins and ends; and
- the staff who designed the plan.

One required step before staff can begin a BMP for an offender is that a mental health professional must perform a psychological assessment of the offender to determine that the dangerous or assaultive conduct is not the result of a serious mental illness, that the offender does not require a higher level of mental health care, or that the offender’s mental health is not deteriorated or deteriorating. Once that review occurs, the offender’s name is placed on a clearance list for 6 months. If an extension of the BMP is needed, mental health staff must reassess the offender’s mental health status. If staff starts a BMP to address an inmate’s behavior, the supervisor of the offender’s housing unit must notify mental health staff.

Another review of a BMP is provided by a review committee made up of the facility administrator, a mental health professional, the unit’s management team, and a facility committee. (In the case of the MSP, the facility committee is the MSP Administrative Review Committee.) The committee may alter the BMP but must notify the offender of the changes. Reviews must occur when an offender is on the first step of an active plan for 7 consecutive days, or every week if the plan is active for longer than 1 week.

The policy also requires a facility to collect data on the number of inmates with a BMP. The data and outcomes must be reported to the facility administrator and the DOC director each year.

MSP Procedure

The MSP operational procedure for behavioral management plans is procedure number MSP 3.5.5. The purpose of the procedure is “to use a comprehensive strategy to deal with, and try to end, an inmate’s repeated dangerous, disruptive, and/or assaultive conduct that isn’t associated with serious mental illness by taking privileges and items the inmate has in his cell away from him and returning them in intervals when the inmate demonstrates he can conform his conduct and be free of dangerous and assaultive behaviors.”

The procedure adds specificity to the overarching DOC policy on BMPs, including that it contains a definition of the term “mental health professional.” The staff positions that are considered mental health professionals are psychiatrist, mental health director, psychologist, clinical therapist, and psychiatric nurse.

The procedure also lists the first three steps of a behavior management plan. If an offender is on Step 1 of a BMP:

- All items are removed from the offender’s cell. The offender receives a security mattress, security blanket, and safety gown.
- The offender receives a food loaf for meals.
- The water to the offender’s cell can be shut off if the BMP is designed to end the offender flooding his cell.

During the time the offender is on Step 1 of a BMP, staff must observe the inmate at random intervals (but at least three times each shift) and document the observations.

If an offender on Step 1 of a BMP maintains 48 hours without any of the behavior that resulted in the BMP, the offender is given a pillow and regular clothing as part of Step 2. During Step 2, the offender is still given the food loaf rather than regular food.

If the offender goes another 24 hours without displaying the behavior that resulted in the BMP, the inmate receives regular food and a regular mattress and bedding. This is Step 3. If flooding was the cause of the BMP, the water to the inmate's cell may also be turned back on. Once the offender remains clear of the behavior for another 24 hours, the plan can be deactivated.

While on a BMP, the offender is allowed to shower every 2 days but is not allowed access to out-of-cell recreation. Activation of a BMP and each movement of the offender through the steps must be documented. The procedure also provides instruction for placing an offender on Step 1 restrictions when the offender has not been cleared yet by mental health staff. In those cases, the housing unit staff may place the offender in a prehearing confinement cell and must immediately notify the mental health staff, who will assess the inmate for serious mental illness and other mental health concerns. Other documentation, review, and monitoring procedures are required by the procedures for these situations.

Classification of Offenders

DOC Policy

The DOC's policy on offender classification is contained in policy number DOC 4.2.1: "The Department of Corrections will ensure that an objective classification system is used on admission and upon status review to manage offenders at the appropriate custody, security, and supervision levels."

A classification system is "a method that uses an objective scoring system to appropriately recommend offender custody levels based on verifiable case information, facility security levels, degree of required supervision, and available program resources." The policy applies to all department divisions, facilities, and programs whether operated by the department or under a contract. It requires each facility or program to have a written offender classification system with objectives and with steps to achieve those objectives. The system must be reviewed at least every year.

Classifications must be based on risk and needs assessments, the use of which is a correctional best practice. The classification system must ensure offenders are classified at the lowest custody level that also ensures individual safety and orderly operation of the facility or program. Custody classifications may not be used as a punishment. The classification system must offer rewards to encourage offenders to meet certain goals, as well as involve the offender in the review process.

An initial classification process should occur when an offender first arrives at a facility or program and must include at least a review of the offender's current offense and sentence, what placements the offender has had before, any history of escape or violence, and impacts on victims. The classification procedure must also screen an offender within 24 hours of arrival at the program or facility to conform with the Prison Rape Elimination Act, including determining if the offender is potentially vulnerable to sexual assault or is a threat to others.

The policy also requires that facility or program procedures provide for a review or reclassification system and appeal procedures. Classification decisions must also be documented.

Specific requirements for youth classification plans are discussed on [page 12](#).

A related DOC policy is for special needs offenders, which is contained in policy number DOC 4.2.2: “The Department of Corrections facilities and programs will identify, assess, and manage offenders with special needs, including those who are potentially dangerous, to provide safe housing, adequate protection, and programmatic resources to meet their needs.”

This policy applies widely to DOC divisions, prisons, other secure facilities, correctional and training programs, and community-based programs either run by or contracted with the department. The definition created by the policy for the term “special needs offenders” includes but is not limited to offenders with a developmental disability, a mental illness, a physical handicap, or a chronic illness or chemical dependency, or others who are considered vulnerable or predatory.

The policy directs programs and facilities to have procedures to appropriately screen, classify, and reassess offenders who might have special needs in conjunction with the requirements of the DOC’s broader classification policy.

MSP Procedures

MSP has at least three procedures that fall under the broader classification policy topic and also that pertain to offenders who might be placed in a locked housing unit at the prison. Those procedures describe the inmate classification system, special management for atypical inmates, and inmates’ separation needs.

The MSP procedure on the inmate classification system is procedure number MSP 4.2.1. The purpose of the procedure is “to use an objective classification procedure to determine the appropriate programming and custody level for each inmate, providing the inmate an opportunity for positive change, while ensuring the safety of the public, staff, and inmates.”

This procedure outlines how the prison will institute the DOC policy directive requiring it to use a classification method to determine what custody level will best meet the inmate’s housing and programming needs and privilege levels while ensuring the safety and security of the facility, staff, and inmates. Classification is performed by a unit management team, which considers input from various sources (courts, social services agencies, presentence investigation reports, and staff who work with the offender) and a risk and needs assessment, which the procedure requires to be updated annually. A classification meeting is typically held with the offender, if possible. An assessment review committee consisting of higher-level prison management staff and, if needed, treatment staff reviews classification decisions, including those moving or removing an inmate from a locked housing unit. If a classification decision is reviewed by the review committee, the decision of the unit management team is not final until the review committee has assessed it.

Custody levels are defined in this procedure, with lower custody levels meaning the inmate is judged to pose less risk to the public, the facility’s safety and security, facility staff, and other inmates. Higher custody assignments mean the inmate is judged to pose a greater risk to individuals and the facility’s safety and security. There are seven general custody types, some of which are further broken down into subcategories. The main MSP custody types are:

- minimum custody, which is the lowest general population custody level. It includes two subcategories: minimum II/unrestricted custody and minimum I/restricted custody. According to the procedure, minimum custody offenders “have more liberty, jobs requiring a higher degree of responsibility, and more control over their personal time.” These inmates can be assigned to work on firefighting crews and to perform community service projects outside the prison fences.
- medium II/unrestricted custody, which is given to offenders who “have demonstrated an ability to function without management problems, but must be housed in a secure facility as relates to offense conviction, length of time to release” or other considerations;

- medium I/restricted custody, which is still considered general population, but inmates in this custody level are typically supervised in the High Security Compound at MSP;
- close custody, which is the highest custody level in the general population. They have been determined to “pose a threat to the safety and security of the facility, staff, other inmates and the public.”
- maximum custody, which is a custody level that requires inmates to be housed in a locked housing unit “because of extreme misconduct or the nature of their sentence (death sentence)”;
- administrative segregation, which is a custody level for “assaultive, rebellious, disruptive or predatory inmates.” These offenders are also placed in locked housing units. If an offender is placed back at MSP after an escape from another secure facility (a county detention center, regional or private prison, etc.), the inmate must be placed at this custody level first.
- restricted administrative segregation, which is for inmates who are in long-term locked housing for repeated behavior that is “assaultive, rebellious, disruptive or predatory.”

The procedure requires inmates of differing custody levels to be housed separately as much as possible, though it allows for other housing assignments if required and if “appropriate security and supervision can be maintained.”

A risk assessment should be performed for the inmate within 45 days of arrival at the prison. Once the assessment is complete, the inmate is classified and given a recommended custody level. The inmate should also be screened to determine needs for programs and treatment. At least every 6 months, each inmate in general population must receive a classification hearing to adjust custody assignments. Those hearings may also occur sooner if the inmate is found guilty of certain serious rule violations, such as homicide, escape, or sexual assault. For inmates in locked housing units, the procedure requires reviews at least every 30 days.

The MSP procedure on special management for atypical inmates is procedure number MSP 4.2.200. The purpose of this procedure is “to manage the placement of atypical offenders for the purpose of providing for the safety of staff and inmates, and for the orderly operation of the institution.”

This procedure includes predatory and vulnerable inmates in its definition of “atypical inmates.” Examples of predatory inmates are “those who had a tendency to victimize others for their own benefit” and inmates with gang affiliations. Inmates considered vulnerable include younger inmates, witnesses or informants, and inmates with disabilities or mental illness. The procedure requires staff to monitor inmates on an ongoing basis to identify those who might fall into either category. If an inmate is determined to be predatory, the inmate’s classification file and identification card must note that finding. The identification card marking must be “discreet” but still notify trained staff about the inmate’s behavior. The procedure further defines the processes used to assess inmates that are predatory or who may be vulnerable, describes how housing determinations for those inmates should be made, requires ongoing monitoring by staff of the situations of vulnerable inmates, and sets out the privileges and programming that should be available to vulnerable inmates.

The MSP procedure on inmate separation needs is procedure number MSP 4.2.202. The purpose of this procedure is “to provide procedures for housing, monitoring, reviewing, and tracking inmates identified as needing separation from other inmates. Staff must review and research all inmate claims of threats to the inmate’s personal safety in determining separation needs.”

Separation needs are defined in this procedure as needs that have been determined to require that an inmate be separated from the general population and/or other specified inmates. The procedure outlines how reports are made (including from an inmate), investigation procedures, and the documentation required. The investigation procedure must include a private interview with the affected inmate, if possible. When an inmate arrives at MSP, the classification review conducted at that time must include a review of older files to examine whether the inmate had past separation needs from other facilities or

stays at MSP and whether the other involved inmate is currently at MSP or a contracted regional or private facility. In addition, the procedure provides for follow-up reviews and governs how staff can end a previously documented separation need. Separation needs are marked and can be accessed by staff in a central location in the DOC's information system for offenders.

Offender Health Assessment and Services (Locked Housing)

DOC Policy

The DOC policy on health assessments and services for offenders in locked housing units is policy number DOC 4.5.21: “The Department of Corrections facility qualified health care professionals will manage offender physical and mental health conditions while the offender is in locked housing.”

This policy applies to DOC secure facilities, whether DOC-owned or operated under a contract. These facilities are required to develop procedures to notify qualified health care professionals when an offender is placed into locked housing. The notification must happen “as soon as possible but within 24 hours” of admission. Qualified health care professionals may be contracted or fee-for-service providers and include physicians, physician assistants, nurses, nurse practitioners, and mental health professionals.

Once health care staff are notified that an offender has been moved to a locked housing unit, those staff must review the offender's health records to determine if there is an existing medical or mental health need that requires an accommodation or might prevent the placement. The review must be documented in the offender's file. If the offender is receiving mental health treatment at the time of the placement, the health care staff must refer the offender to mental health staff for further evaluation. Again, the referral must be documented. A mental health professional must evaluate the offender within 24 hours of that referral. The health care professionals will work with the facility administrator on alternative housing placements if there are physical or mental health reasons that mean a locked housing placement might be harmful to the offender. Called contraindicating conditions, several of those reasons are listed in the procedure. The nonexhaustive list ranges from persistent vomiting to suicidal ideation or behavior, acute alcohol or drug withdrawal, or disorientation.

The procedure also sets out how often health care or mental health care staff will visit an offender in locked housing. If the offender has limited contact with staff or other inmates, the offender must be monitored by the health care or mental health care staff at least 3 days each week. An offender in locked housing who more recreation or social contact with staff or other offenders must be visited weekly. Documentation of the visits and any health findings should be logged in the offender's file.

Specific Provisions Pertaining to Juveniles or Youth

The department's policy on locked housing unit operations (DOC 3.5.1, reviewed on [page 3](#)) provides several additional requirements specific to youth, although many of the general requirements apply to both youth and adult offenders. The youth-specific requirements include the following:

- Confinement may not be used in youth facilities “as a sanction to manage” behavior.
- An administrator or supervisor may order a youth to be confined if necessary to protect the individual or others, but the placement must be reviewed within 4 hours regardless of the day. If the placement happens after 9 p.m., it must be reviewed the next morning.
- Facilities must develop individual program plans and provide services to youth that need to be separated from the general population of the youth facility.
- A youth in temporary confinement must be observed by a staff member every 15 minutes.
- The youth must be visited at least one time a day by certain staff members, including medical staff.

The department's policy of offender classification systems (DOC 4.2.1, reviewed on [page 9](#)) requires classification plans for youth to consider:

- level of risk;
- type of housing required;
- participation in programs;
- developmental and special needs, such as mental, social, and emotional stability, maturity, and escape history; and
- availability of program space to provide interactions and activities that meet the youth's physical, social, and emotional needs.

The initial classification for a youth must be completed within 1 week of transfer from a different facility or within 2 weeks of admission from a court.

The MSP's procedure on inmate classification (MSP 4.2.1, reviewed on [page 10](#)) includes that inmates under age 18 are presumed to be medium unrestricted custody or lower to start, unless the nature of the inmate's offense or the inmate's history in the prison or other facilities requires a higher level of custody. Inmates under age 18 may not be placed in the administrative

segregation or maximum security custodies for more than 72 hours without the approval of the DOC director or the MSP warden. In those cases, the inmate must also be evaluated by the mental health staff to determine if the isolated nature of those classifications would have an adverse effect on the inmate's mental health.



RESOURCES

- Department of Corrections policy web page: www.cor.mt.gov/Policy
- Montana State Prison procedures web page: www.cor.mt.gov/Policy/MSPprocedures

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