



# Operating Procedure

<b>Effective Date</b>	May 1, 2017	<b>Number</b>	830.6
<b>Amended</b>	7/1/19	<b>Operating Level</b>	Department
<b>Supersedes</b>		Operating Procedure 830.6 (5/1/14)	
<b>Authority</b>		COV §53.1-10	
<b>Subject</b>		<b>ACA/PREA Standards</b>	
<b>OFFENDER KEEP SEPARATE MANAGEMENT</b>		4-4251, 4-4281; §115.62	
<b>Incarcerated Offender Access</b>	<b>Public Access</b>	<b>Yes</b> <input checked="" type="checkbox"/>	<b>No</b> <input type="checkbox"/>
<b>Yes</b> <input checked="" type="checkbox"/> <b>No</b> <input type="checkbox"/>	<b>Attachments</b>	<b>Yes</b> <input type="checkbox"/>	<b>No</b> <input checked="" type="checkbox"/>
		<b>Office of Primary Responsibility</b>	
		Manager of Classification and Records	

## I. PURPOSE

This operating procedure establishes a standardized system of identifying, verifying, and documenting offender keep separate needs within institutions operated by the Department of Corrections.

## II. COMPLIANCE

This operating procedure applies to all institutions operated by the Department of Corrections (DOC). Practices and procedures shall comply with applicable State and Federal laws and regulations, Board of Corrections policies and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

## III. DEFINITIONS

**Co-Defendants** - DOC offenders who committed the same felony offense (or portions of the same offense) and where there is a verified, documented reason to believe these offenders may have a conflict with one another while incarcerated

**Keep Separate** - A classification action whereby an offender is not to be housed at a specific location, or with access to specific DOC staff, or offender; “Keep Separate” determination is not required but may be based on:

- Two or more offenders who are a serious threat to one another as demonstrated by a verified, prior, aggravated assault (or contract for assault) where serious harm or death was clearly the intent of the aggressor.
- One offender has testified against another offender in Court and this testimony was instrumental in the other offender's conviction and/or sentence to a substantial amount of time on his/her sentence.
- An offender's felony was committed against DOC staff, another offender, or the immediate family of the staff or offender.
- The offender is a family member, friend, and/or prior associate with a DOC staff member.
- The offender's crime was committed against a current or former institutional employee or in the locality where the institution is located.
- The offender is subject to a substantial risk of sexual abuse from a specific, identified offender (§115.62)

**Officer-in-Charge (OIC)** - A Unit Manager or designated ranking security officer of a correctional facility; normally the Shift Commander, or the Assistant Shift Commander

**Relatives** - DOC offenders who have first generation relationships, including step relationships (i.e. brothers, sisters, father and son, mother and daughter) and where there is a verified, documented reason to believe that these offenders may have a conflict with one another while incarcerated

**Serious Management Problems** - Disputes between DOC offenders at a particular institution of such significance as to warrant an Incident Report and/or disciplinary charge(s) and temporary assignment to segregation for one or both parties

#### IV. PROCEDURE

##### A. Separation of Offenders

1. A staff member who becomes aware of a possible need to separate offenders should immediately notify the Officer in Charge (OIC) or administrator on duty.
2. Immediate Separation:
  - a. When the OIC determines there is an immediate need to separate offenders because a potentially dangerous situation exists, or there may be an escalation of a conflict and the safety of staff or offenders may be threatened, the OIC shall take appropriate measures to protect those offenders involved and maintain the security of the institution. (4-4281)
  - b. Such measures may include internal separation or placement in General Detention in accordance with Operating Procedure 425.4, *Management of Bed and Cell Assignments*, and Operating Procedure 861.3, *Special Housing* or Operating Procedure 425.4 RH, *Management of Bed and Cell Assignments*, and Operating Procedure 841.4, *Restrictive Housing Units*. Offenders placed in General Detention will be referred to the Institutional Classification Authority (ICA) to review the case and make a recommendation regarding the need for assignment to segregation, Keep Separate documentation, or other actions.
3. Immediate Separation Not Required:
  - a. It is the responsibility of each Facility Unit Head to restrict the confinement of keep separate claimants to special housing only after all other alternatives have been ruled out and the safety of staff or offenders may be threatened. (4-4251)
  - b. An OIC receiving information relating to a possible keep separate situation that does not require immediate separation of the offenders involved should refer the information to the institutional investigator or the offender's assigned counselor for investigation and evaluation.

##### B. Evaluation and Investigation of Keep Separate Situations

1. Any information regarding a potential Keep Separate situation should be forwarded to the institutional investigator or other appropriate staff to gather information and investigate the situation as needed.
2. Administrative Separation
  - a. Occasionally, it is necessary for the institution's administration to separate offenders who have not claimed problems with one another, but rather whose prior conflicts and physical proximity to one another may lead to further disruptive behavior and serious management problems.
  - b. Administrative documentation of enemies, co-defendants, and relatives:
    - i. The report or referral to the ICA is to be made by supervisory or management level personnel.
      - (a) The staff member should indicate the separation reason requested (i.e. serious threat to one another, co-defendants, relatives, etc.).
      - (b) The staff member making the request must provide documentation of each incident leading to the need for separation.
    - ii. All such actions require review by Central Classification Services.
    - iii. Offenders will not be involved in the threat evaluation nor notified of the results of administrative action to assign Keep Separate status.
3. Offender Keep Separate Claims
  - a. An offender claiming another offender as a keep separate should be required to provide staff with sufficient information to properly identify the claimed keep separate, including the following elements:
    - i. Offender's name and prison number, if known
    - ii. Nickname, if any
    - iii. Physical description - Where necessary and feasible, an identifying photograph may be used.
    - iv. Location, if known
    - v. Known associates with other offenders or offender groups

- vi. Specific circumstances which led to the claim
- vii. Any other relevant information
- b. Offender Interviews
  - i. The counselor or institutional investigator will interview the offender and evaluate the offender's keep separate claim in a timely manner.
  - ii. The offender should provide as much information as possible, including any means of verifying the keep separate claim.
- c. Investigation
  - i. The counselor and/or the institutional investigator will attempt to verify and document the situation leading to the keep separate claim.
  - ii. A log should be maintained of all attempts to verify the offender's claim, including the names of all contacts made.
  - iii. Care should be taken to ensure that disclosure of the claimant's identity is not made to other offenders involved if it may place the claimant or other offenders at greater risk.
  - iv. When the investigation finds sufficient evidence that a disciplinary offense has been committed, it is the responsibility of the investigating official to initiate appropriate disciplinary charges. Conviction of the disciplinary charge then becomes the basis for possible offender separation.
- d. Evaluation Guide - Staff evaluating keep separate claims for validity should rely on specific, documented evidence, which may be provided by corrections staff, reliable offender witnesses, incident reports, disciplinary charges, pre-sentence investigations, court records, jail records, and correspondence from the Office of the Commonwealth's Attorney or Attorney General, etc.
- e. Reporting and Recommendation Guide - Once an investigation and evaluation of the offender's keep separate claim is made, the investigating official must determine appropriate reporting and recommendation procedures based on the following:
  - i. A keep separate claim should be initiated where there is verified evidence that a potentially life threatening assault has been made on the claimant or where a contract has been sought to seriously harm, maim, or kill the reporting offender.
  - ii. A keep separate claim should be initiated where there is verified evidence that a claimant has testified in court against another DOC offender and the offender's conviction and/or length of sentence was likely influenced by the claimant's testimony. In the case of one co-defendant testifying against another, there should be clear and substantial evidence that one defendant's testimony influenced the decision of the Court.
  - iii. A keep separate claim should be initiated when the offender claimant's crime was committed against another DOC offender or his immediate family.

### C. Keep Separate Determination

- 1. Summary Report
  - a. Once the potential Keep Separate situation has been fully investigated, the staff member making the request must prepare documentation (investigation report preferred) containing a summary of the situation, the steps taken to investigate and evaluate the situation, and the staff member's conclusions regarding the need for Keep Separate determination.
  - b. Claims recommended for approval must provide validation for each documented incident leading to the need for separation.
  - c. The Summary Report and any supporting documentation will then be submitted to the Institutional Classification Authority.
- 2. ICA Review
  - a. The ICA will conduct a hearing in accordance with Operating Procedure 830.1, *Facility Classification Management* to review the information provided and will render a decision to approve or disapprove the Keep Separate determination.
  - b. The Summary Report and other relevant documents should be uploaded as external documents to

the VACORIS ICA hearing record.

- c. Where investigation results show insufficient supporting validation of the situation, the ICA should recommend disapproval.
3. Management Review
  - a. If the Facility Unit Head or designated review authority recommends approval, or a change in separation classification, the decision will be escalated to Central Classification Services (CCS) for final disposition.
  - b. Final disapprovals shall be made by the Facility Unit Head or designee and not escalated for CCS for review.
4. CCS will document the final disposition in VACORIS.
5. Offender notification
  - a. The offender will be notified in writing by appropriate institutional personnel of the final approval/disapproval of offender initiated keep separate requests.
  - b. Offenders shall not be notified of Keep Separates added by administrative request.
- D. Offender Reassignments - Upon final CCS action on a Keep Separate situation, the institution should take the following actions:
  1. Offenders approved for Keep Separate status must be separated at all times and should not be placed in the same institution except at Security Level 5 and Security Level S facilities where adequate security restrictions may prevent them from ever coming in contact with one another except in a closely monitored area.
    - a. If a Keep Separate claim was initiated due to an assault, the aggressor should be recommended for transfer so that the victim may be returned to the general population as quickly as possible.
    - b. Under other Keep Separate circumstances, the institution should determine the appropriate party to transfer.
  2. When CCS disapproves a Keep Separate claim for an offender being held in segregation, the offender should immediately be reviewed for return to the general population.
    - a. If deemed appropriate, institutional personnel may desire to internally separate such offenders within their general population.
    - b. Offenders who refuse to return to the general population should be-evaluated for assignment to the *Steps to Achieve Reintegration (STAR) Program* in accordance with Operating Procedure 830.5, *Transfers, Institution Reassignments*.
- E. Deleting Keep Separate Information
  1. It is important that staff carefully evaluate requests for deletion from Keep Separate designation.
    - a. Offenders may request deletion of only those offenders who are listed as Keep Separate based solely on the requesting offender's claim of the keep separate.
    - b. Such requests should be made in writing to the Counselor and should be notarized.
    - c. At each offender's annual review, the Counselor should encourage deletion of offenders who are no longer valid keep separates.
  2. Counselor Evaluation
    - a. The counselor will evaluate the request in the same way as for adding Keep Separate information and submit a Summary Report to the ICA.
    - b. Verification with other facilities may be necessary to determine specifics regarding an incident leading to the initial Keep Separate documentation; however, care should be taken to ensure confidentiality in situations where the claimed keep separate is not aware of having been claimed as a keep separate.
  3. Management Review

- a. The ICA's and Facility Unit Head's review will be conducted as outlined above for adding keep separates.
  - b. Once CCS has approved/disapproved the Keep Separate deletion and it is entered in VACORIS, final action will be communicated to the offender by their counselor.
4. Non-Keep Separate Reviews
- a. Non-keep separate separation issues as described above should be reviewed periodically by the institution administration and by CCS.
  - b. If the review indicates that the non-keep separate separation issue no longer exists, the Facility Unit Head may request that the listed offenders' separation status be deleted.
  - c. Such actions are to be fully justified and reviewed by CCS for deletion.

F. Initial Classification Keep Separate Checks

1. Newly received prisoners will be questioned at Reception Centers and other intake units as to known keep separates.
2. The procedure for screening keep separate claims is the same as described above. Note: Only those offenders with DOC numbers may be claimed as keep separates in VACORIS. Potential keep separate claims for jail offenders not having DOC numbers should be documented for follow-up review in the Reception Center offender's record.

G. Parole Violator Keep Separate Checks – Reception Center staff should ensure that previously identified keep separate information is re-verified and sent to CCS for final review.

H. Confidentiality - Under no circumstances are offenders to be given permission to view or receive a copy of VACORIS or any documentation of a Keep Separate situation. Except where otherwise indicated in this operating procedure, Keep Separate information is not to be disclosed to offenders.

I. Offender Appeals - Offenders may appeal the decision made regarding their keep separate claim through the Offender Grievance Procedure.

V. REFERENCES

Operating Procedure 425.4, *Management of Bed and Cell Assignments*  
Operating Procedure 425.4 RH, *Management of Bed and Cell Assignments*  
Operating Procedure 830.1, *Facility Classification Management*  
Operating Procedure 830.5, *Transfers, Institution Reassignments*  
Operating Procedure 841.4, *Restrictive Housing Units*  
Operating Procedure 861.1, *Offender Discipline, Institutions*  
Operating Procedure 861.3, *Special Housing*

VI. FORM CITATIONS

None

VII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years after the effective date.

*The office of primary responsibility reviewed this operating procedure in May 2018 and no changes are needed at this time.*

*The office of primary responsibility reviewed this operating procedure in May 2019 and necessary changes have been made.*

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*4/6/17*

A. David Robinson, Chief of Corrections Operations

Date

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