



# Virginia Department of Corrections

## Inmate Management and Programs

### Operating Procedure 830.6

#### *Inmate Keep Separate Management*

**Authority:**

Directive 830, *Classification Management*

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5-ACI-3D-08, 5-ACI-4A-05; §115.62

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### REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

### COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections (DOC). Practices and procedures must comply with applicable State and Federal laws and regulations, American Correctional Association (ACA) standards, Prison Rape Elimination Act (PREA) standards, and DOC directives and operating procedures.

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**DEFINITIONS**

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

**ICA Hearing** - An inmate case review conducted by the Institutional Classification Authority or Multi-disciplinary Team; these hearings may be either formal due process or informal hearings depending on the purpose of the review.

**Institutional Classification Authority** - The institutional employee designated to conduct inmate case review hearings.

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

- Two or more inmates 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 inmate has testified against another inmate in Court and the inmate's conviction and/or length of sentence was likely influenced by the testimony.
- An inmate's felony was committed against staff, another inmate, or the immediate family of a staff member or inmate.
- The inmate is a family member, friend, and/or prior associate with a staff member.
- The inmate's crime was committed against a current or former institutional staff member or in the locality where the institution is located.
- The inmate is subject to a substantial risk of sexual abuse from a specific, identified inmate. (§115.62)

**Multi-Disciplinary Team (MDT)** - MDT members are responsible to review individual inmates related to restorative housing and step-down statuses and act as the Institutional Classification Authority to make recommendations for housing status, transfer, security level, good time class, etc.; decisions are the responsibilities of the Facility Unit Head and Regional Administrator.

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

**Restorative Housing Unit** - A general term for special purpose bed assignments including restorative housing, and step-down statuses; usually a housing unit or area separated from full privilege general population.

- **Alt-GP Status** - General population bed assignments operated with increased privileges above RHU status but more control than full privilege general population for inmates making an informed voluntary request for placement and inmates assigned to the restorative housing unit for their own protection.
- **RHU-Restorative Housing (RHU) Status** - Special purpose bed assignments operated under maximum security regulations and procedures, and utilized under proper administrative process, for inmates requesting placement with informed voluntary consent, inmates needing confinement for their own protection, when there is a need to prevent imminent threat of physical harm to the inmate or another person, or the inmate's behavior threatens the orderly operation of the facility.
- **RH Step-Down 1 (SD-1), RH Step-Down 2 (SD-2) Status** - General population bed assignments operated with increased privileges above RHU status but more control than full privilege general population.

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



## PURPOSE

This operating procedure establishes a standardized system to identify, verify, and document inmate keep separate needs in Department of Corrections (DOC) institutions.

## PROCEDURE

- I. Immediate Separation of Inmates
  - A. Any staff member aware of a possible need to separate an inmate from another inmate for their personal protection should immediately notify the Shift Commander or a higher authority.
    1. The Shift Commander or higher authority will meet with the inmate to determine if there is an immediate need to separate the inmate for their personal protection due to a potentially dangerous situation, or a potential escalation of a conflict that could threaten the safety of staff, the inmate, or other inmates, the Shift Commander must take appropriate measures to protect those inmates involved and maintain the security of the institution. (5-ACI-3D-08)
      - a. Appropriate measures may include but are not limited to internal separation or placement in a Restorative Housing Unit on Alt-GP status; see Operating Procedure 425.4, *Management of Bed and Cell Assignments* (restricted).
      - b. The Shift Commander or higher authority will place inmates in the Restorative Housing Unit on Alt-GP status only after all other alternatives have been ruled out and the safety and security of the inmate may be threatened. (5-ACI-4A-05)
    2. When it is necessary to administratively separate inmates who have not claimed a problem with one another, but whose prior conflicts and physical proximity to one another may lead to further disruptive behavior and serious management problems e.g., co-defendants, relatives, etc., staff will refer the inmate to the Shift Commander or higher authority for appropriate action.
      - a. The staff member will document the separation reason i.e., serious threat to one another, co-defendants, relatives, etc. on an *Internal Incident Report* in VACORIS
      - b. The staff member must provide documentation of each incident that led to the need for separation.
      - c. Inmates must not be involved in the threat evaluation or notified of the results of any administrative action to assign a keep separate status.
      - d. All such actions require review by Central Classification Services (CCS).
  - B. When an inmate makes an informed voluntary request for placement in the Restorative Housing Unit for their personal protection:
    1. Staff must complete an *Internal Incident Report (IIR)* in VACORIS for “Referral to Restorative Housing”.
    2. The institution bears the burden of establishing a basis for refusing the inmate’s request.
  - C. The Multi-Disciplinary Team (MDT) will conduct an Institutional Classification Authority (ICA) hearing for inmates in the Restorative Housing Unit on Alt-GP status to review their case and make a recommendation regarding the need for continued assignment to the Restorative Housing Unit, Keep Separate documentation, and other classification actions as applicable.
  - D. When the Shift Commander or higher authority receives information related to a possible Keep Separate situation that does not require immediate separation of the inmates involved, the Shift Commander or higher authority should forward the information to the Institutional Investigator or other appropriate staff for investigation and evaluation.
- II. Evaluation and Investigation of Inmate Keep Separate Claims
  - A. Investigating Staff should require any inmate claiming another inmate as a keep separate to provide sufficient information to properly identify the claimed keep separate, including the following elements:



1. Inmate's name and DOC number, if known
  2. Nickname, if any
  3. Physical description - Where necessary and feasible, staff may use an identifying photograph.
  4. Location, if known
  5. Known associates with other inmates or inmate groups
  6. Specific circumstances that led to the claim
  7. Any other relevant information
- B. The Institutional Investigator or other appropriate investigating staff will gather information and investigate the inmate's keep separate claim.
1. Inmate Interviews
    - a. Investigating staff will interview the inmate and evaluate the inmate's keep separate claim in a timely manner.
    - b. The inmate should provide as much information as possible, including any means of verifying the keep separate claim.
  2. Staff evaluating keep separate claims for validity should rely on specific, documented evidence, provided by staff, reliable inmate witnesses, incident reports, *Disciplinary Offense Reports*, pre-sentence investigations, Court records, jail records, and correspondence from the Office of the Commonwealth's Attorney or Attorney General, etc.
  3. Investigation
    - a. Investigating staff will attempt to verify the information that led to the inmate's keep separate claim; and should document or log all verification attempts to include the names of all contacts made.
    - b. Care should be taken to ensure that disclosure of the claimant's identity is not made to other inmates involved if it may place the claimant or other inmates at greater risk.
    - c. When the investigation results in sufficient evidence that a disciplinary offense has been committed, it is the responsibility of investigating staff to initiate appropriate disciplinary action; see Operating Procedure 861.1, *Inmate Discipline*.
    - d. An inmate's conviction of the disciplinary offense then becomes the basis for possible inmate separation.
- C. Once appropriate staff has investigated and evaluated the inmate's keep separate claim, they must determine if there is verified evidence of the following:
1. A potentially life-threatening assault has been made on the claimant or a contract has been sought to seriously harm, maim, or kill the reporting inmate.
  2. The claimant testified in court against another inmate and the inmate'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.
  3. The claimant's crime was committed against another inmate or the inmate's immediate family.
- D. The investigating staff member must prepare documentation, investigation report preferred, containing a summary of the situation, the steps taken to investigate and evaluate the situation, and their conclusions regarding the inmate's keep separate claim.
1. When investigating staff recommend approval of a keep separate claim, the staff member must provide documentation to validate each incident leading to the need for separation.
  2. The summary report and all supporting documentation must be submitted to the MDT for consideration

during the ICA hearing.

### III. Keep Separate Determination

- A. The ICA or MDT, as appropriate, will conduct a formal ICA hearing to review the information provided and will render a decision to approve or disapprove the investigate staff members keep separate recommendation; see Operating Procedure 830.1, *Institution Classification Management*.
1. Where the summary report and investigation results show insufficient supporting documentation to validate the incident that led to the need for separation, the MDT or ICA should recommend disapproval.
  2. Where the summary report and investigation results show sufficient supporting documentation to validate the incident that led to the need for separation, the MDT or ICA should recommend approval.
  3. Staff will upload the summary report and other relevant documents as external documents to the VACORIS ICA hearing record.
- B. The MDT or ICA will escalate the classification action to the Facility Unit Head or designated review authority who will approve or disapprove the MDT's or ICA's recommendation.
1. When the Facility Unit Head or designated review authority recommends approval or a change in an inmate's keep separate classification, the decision will be escalated to CCS for final disposition.
  2. Facility Unit Head or designee disapprovals are final and are not escalated for CCS for review.
  3. CCS will document the final disposition in VACORIS.
- C. Inmate notification
1. Staff will provide the inmate with a copy of the *Institutional Classification Authority Hearing Notification* with the final decision on approval and disapproval of their keep separate claims.
  2. Staff must not notify inmates when keep separates are added by administrative request.
- D. Inmate may appeal the decision on their keep separate claim through the established grievance process; see Operating Procedure 866.1, *Offender Grievance Procedure*.

### IV. Inmate Institution Reassignments

- A. Upon final CCS approval to add a Keep Separate status, staff should take the following actions:
1. Staff must always keep inmates approved for Keep Separate status separated and should not place them in the same institution except at Security Level 5 and Security Level S institutions where adequate security restrictions should prevent inmates from ever coming in contact except in a closely monitored area.
  2. If a keep separate claim was initiated due to an assault, staff should recommend the aggressor for transfer so that the victim can return to the general population as quickly as possible.
  3. In other keep separate approvals, staff should determine the appropriate party to transfer.
- B. When CCS disapproves an inmate's keep separate claim for an inmate assigned to the Restorative Housing Unit, the MDT should immediately review the inmate for return to the general population.
1. If deemed appropriate, staff may separate such inmates internally within their general population.
  2. Inmates who refuse to return to the general population should be evaluated for assignment to the *Steps to Achieve Reintegration (STAR) Program*; see Operating Procedure 830.5, *Transfers, Institution Reassignments*.
  3. Any inmate may contest their removal from the Restorative Housing Unit by submitting a *Written Complaint 866\_F3* directly to the Facility Unit Head; see Operating Procedure 841.4, *Restorative Housing Units*.



**V. Deleting Inmate Keep Separate Information**

- A. Inmates can request to delete only those inmates listed as a keep separate based solely on the requesting inmate's keep separate claim.
  - 1. The Counselor should encourage inmates to delete those inmates who are no longer valid keep separates at their annual review.
  - 2. The inmate must submit a written request, preferably notarized, to their Counselor.
- B. It is important that the Counselor carefully evaluate an inmate's requests to delete a keep separate designation.
  - 1. The Counselor will evaluate the inmate's request for validity in the same manner as for adding a keep separate and must submit a summary report to the ICA.
  - 2. The Counselor may need to verify the specifics regarding an incident that led to the initial keep separate status with staff at other institutions; however, care should be taken to ensure confidentiality in situations where the other inmate is not aware of having been claimed as a keep separate.
- C. The ICA and the Facility Unit Head or designated authority will conduct a formal ICA hearing and render a decision to approve or disapprove the Counselor's recommendation to delete a keep separate; see Operating Procedure 830.1, *Institution Classification Management*.
- D. The ICA will escalate the classification action to the Facility Unit Head or designated review authority who will approve or disapprove the ICA's recommendation and will escalate the classification action to CCS.
- E. Once CCS reviews the recommendation and approves or disapproves the keep separate deletion and entered the decision in VACORIS, the Counselor must provide the inmate a copy of *Institutional Classification Authority Hearing Notification* with the final decision on approval and disapproval.

**VI. Initial Classification Confirmation of Keep Separates**

- A. Reception Center and other intake staff will interview newly received inmates as to any known keep separates currently in the DOC.
  - 1. Appropriate staff will investigate and evaluate keep separate claims in accordance with the requirements of this operating procedure.
  - 2. Only those inmates with a DOC number can be entered as a keep separate in VACORIS.
  - 3. Staff should document potential keep separate situations for individuals without a DOC number in the inmate's record for a follow-up review.
- B. Reception Center staff should ensure that previously identified keep separate information for Parole Violators is re-verified and sent to CCS for final review.

**VII. Confidentiality**

- A. Except where otherwise authorized in this operating procedure, keep separate information is not to be disclosed to inmates.
- B. Under no circumstances are inmates allowed to view or receive a copy of information in VACORIS or any other documentation of a keep separate situation.

**REFERENCES**

- Operating Procedure 425.4, *Management of Bed and Cell Assignment* (restricted)
- Operating Procedure 830.1, *Institution Classification Management*
- Operating Procedure 830.5, *Transfers, Institution Reassignments*



Operating Procedure 841.4, *Restorative Housing Units*

Operating Procedure 861.1, *Inmate Discipline*

Operating Procedure 866.1, *Offender Grievance Procedure*

## **ATTACHMENTS**

None

## **FORM CITATIONS**

*Written Complaint 866\_F3*

