


Idaho Department of Correction 	<b>Standard Operating Procedure</b>	Title: <b>Inmates Under Sentence of Death</b>		Page: 1 of 6
		Control Number: <b>319.02.01.002</b>	Version: <b>4.0</b>	Adopted: 12/8/95

**Ashley Dowell, chief of the division of prisons, approved this document on 06/05/2017.**

**Open to the public:**  **Yes**

**SCOPE**

This standard operating procedure applies to all inmates under the sentence of death committed to the department, all inmates previously under the sentence of death whose sentences have been rescinded and are awaiting a new sentence, staff at Idaho Maximum Security Institution (IMSI) and Pocatello Women's Correctional Center (PWCC), and the central office review committee.

<b>Revision Summary</b>
Revision date (06/05/2017) version 4.0: Reformatted, referenced the <i>Visiting</i> standard operating procedure regarding the definition of immediate family.

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## **BOARD OF CORRECTION IDAPA RULE NUMBER**

None

## **POLICY CONTROL NUMBER 319**

Restrictive Housing

## **PURPOSE**

The purpose of this standard operating procedure (SOP) is to establish procedures and criteria for the housing and administrative review of inmates under sentence of death in accordance with Idaho Code Section 19-2706. All placement decisions must be in accordance with the provisions set forth in this SOP. Inmates under sentence of death cannot be classified or housed in any manner less than close custody at Idaho Maximum Security Institution (IMSI) or Pocatello Women's Correctional Center (PWCC).

## **RESPONSIBILITY**

The facility heads at IMSI and PWCC are responsible to implement and follow this SOP.

## **STANDARD PROCEDURES**

### **1. General Information**

With the exception of the procedures annotated in this SOP, inmates under the sentence of death housed in restrictive housing will be subject to the standard conditions of confinement described in *Restrictive Housing*, SOP [319.02.01.001](#), Conditions of confinement for those inmates under sentence of death that are released to general population are found in *Classification: Inmate*, SOP [303.02.01.001](#), and *Property, State-Issued and Inmate Personal Property*, SOP [320.02.01.001](#).

### **2. Facility Restrictive Housing Committee for Inmates under the Sentence of Death**

The facility head will designate the chairperson and restrictive housing committee members for inmates under sentence of death. This committee will be comprised of at least three people including a security staff member who has the rank of lieutenant or higher, a mental health professional, and a deputy warden.

### **3. New Admissions Placement Procedure, Including Release to Close Custody**

Newly committed inmates under sentence of death will be placed directly into restrictive housing, men at IMSI) and women at PWCC. Such inmates are not housed in a receiving and diagnostic unit (RDU), but do receive initial medical and psychological screens similar to those completed in RDU.

The case management team (TCM) working in restrictive housing will record their observations and contacts with the inmate and make recommendations regarding the inmate's needs, as well as housing placement. Within 15 days of admittance, the TCM will submit a report to the facility's investigation staff.

Investigation staff will have 15 days to review the information provided by the TCM and complete a referral file that contains specific information regarding the inmate's current behavior, past behavior, disciplinary offense report history, and other pertinent information obtained through the investigation office. The facility head will ensure that the completed

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referral file is forwarded to the restrictive housing committee for inmates under sentence of death.

**The restrictive housing committee for inmates under sentence of death has two weeks to review the file submitted by the investigation staff, the inmate's central record, and other pertinent information.**

Within 72 hours following the two 2-week review period, the chairperson will schedule a restrictive housing hearing. Forty-eight hours before the hearing, the chairperson will ensure that the inmate signs the *Acknowledgement of Receipt* and receives a copy of the *Restrictive Housing Referral Notice* form. (Refer to *Restrictive Housing*, SOP 319.02.01.001.)

At the conclusion of the hearing, a *Restrictive Housing Report of Hearing* form will be completed, noting the recommendations from each committee member. (Refer to 319.02.01.001, *Restrictive Housing*)

The committee chairperson will forward the investigation referral file, the *Restrictive Housing Referral Notice*, and the *Restrictive Housing Report of Hearing* to the facility head for review. The chairperson will ensure that the inmate's central file is returned to the facility records clerk.

The facility head will review the restrictive housing committee's findings and recommendations. If the facility head decides that the inmate should be housed in administrative segregation, he will indicate that information on the form.

The facility head will forward the original *Restrictive Housing Report of Hearing* form to the records clerk and a copy of the form to the chairperson of the restrictive housing committee.

The records staff will file the original form in the inmate's central file.

The committee chairperson will inform the inmate of the facility head's decision.

If facility head recommends release to general population as close-restricted custody, he will make his recommendation for placement and forward the information to the central office administrative review committee.

The central office administrative review committee will review the facility head's placement recommendations, and may requested additional information to include psychological testing.

The chief of the division of prisons will forward the central office administrative review committee's recommendations to the director.

The director will review all of the information and make a decision regarding the inmate's housing placement, then notify the administrator of operations of his decision.

The chief of the division of prisons will notify the facility head of the decision. If the release to close-restricted custody is not approved, the inmate will remain unclassified in administrative segregation.

If the release is approved, the inmate will be classified as close custody and released from administrative segregation.

#### **4. Special Procedures for Inmates Admitted Prior to December 1, 2003**

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The following conditions affect inmates committed to the department before December 01, 2003, under sentence of death and inmates who have had their death sentences vacated or their convictions overturned and are now waiting re-sentencing or re-trial.

Inmates identified above who are placed or retained in administrative segregation will keep the same property that was previously approved for inmates under sentence of death. These privileges will be grandfathered until November 1, 2005. On November 2, 2005, grandfathered privileges will be revoked, and any such inmate remaining in administrative segregation will be subject to the standard conditions of confinement for restrictive housing as identified in 319.02.01.001 and 320.02.01.001.

Before November 2, 2005, these privileges will be revoked if the inmate is found guilty of a class A disciplinary offense report (DOR). Property levels and privileges will be reduced to the standard conditions of confinement for restrictive housing as identified in 319.02.01.001 and 320.02.01.001.

When property limits are reduced on November 2, 2005, or because of a conviction of a class A DOR, property items that are not allowed in administrative segregation will be handled in accordance with 320.02.01.001.

## **5. Procedures for Inmates Receiving a Death Warrant**

Whenever an inmate receives a death warrant, the condemned person will be placed in solitary confinement until execution. No person will be allowed access to the condemned person except the following:

- Law enforcement personnel investigating matters within the scope of their duties
- Condemned person's attorneys of record
- Agents of the condemned person's attorneys of record
- Attending physicians
- Spiritual advisers of the condemned person's choosing
- Members of the condemned person's immediate family (see *Visiting*, SOP 604.02.01.001)

During the seven days immediately preceding the scheduled execution, the condemned person may have contact visits with the condemned person's attorneys of record, the agents of the condemned person's attorneys of record, spiritual advisers of the condemned person's choosing, and members of the condemned person's immediate family.

Not to exceed 72 hours, but at least 24 hours before a scheduled execution, the condemned person will be housed in a cell isolated from other inmates. Staff will be assigned to observe the inmate at all times and a separate log will be kept of that watch.

If a death warrant is stayed, the inmate will be reviewed using the procedure in section 2.

## **6. Administrative Segregation Review Process**

Inmates under sentence of death housed in administrative segregation will be reviewed as follows:

- A mental health professional will review each inmate every 90 days. If the mental health professional has any concerns, he will contact the facility head. If the

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concerns are of an emergent nature, the mental health professional will contact the shift commander.

- The facility restrictive housing committee for inmates under sentence of death will review such inmates at least annually, and the chairperson will forward status reports to the facility head (See Attachment B, *Status Report*).
- Recommendations for release to close custody will be handled in accordance with section 1 of this SOP.

## **7. Documentation**

All documentation will be completed in compliance with *Restrictive Housing*, SOP 319.02.01.001. Inmate reviews will be documented in the weekly TCM meeting minutes.

## **8. Inmates Awaiting Re-Sentencing**

If an inmate under sentence of death has said sentence revoked, commuted or repealed, the facility head must:

- Contact the deputy attorney general (DAG) assigned to the department to confirm the action.
- If the action is confirmed, convene the facility restrictive housing committee identified in this SOP to review the inmate's placement.
- Review the committee's recommendations and decide the inmate's placement.
- Notify the chief of the division of prisons and the director of the placement decision.

## **9. Death Sentence Vacated**

If the death sentence is vacated, the facility head will confirm the action, then immediately contact the chief of the division of prisons or the administrative duty officer.

The chief of the division of prisons or the administrative duty officer will immediately convene department leadership to determine the legal status of the inmate.

If the inmate is to be transported back to the county of origin, the chief of the division of prisons, or designee, will contact the county sheriff to arrange for transport.

The chief of the division of prisons, or designee, will notify the facility head regarding the decision.

## **10. Access to Inmate by Court Appointed Professional Expert**

If so ordered by the court, professional experts may have contact visits and may request removal of restraints. Before removal of restraints, the court ordered expert must sign a waiver of liability (See Attachment A, *Waiver of Liability*).

Court approved professional experts may be allowed to bring professional testing equipment and supplies. Only testing equipment and supplies specifically listed in the court order will be allowed.

At least 48 hours before the testing, the institution must receive by mail or facsimile, on the expert's professional letterhead, a list of the equipment, a written description of how the equipment will be used, a description of how the inmate will be in contact with the

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equipment, the purpose of the equipment, and an estimate of the time needed for the procedure.

All testing equipment and supplies will be searched upon entering and exiting the facility.

All electronic equipment must be turned on and demonstrated briefly as requested by facility staff.

### **11. Inmate Conduct**

Inmates under sentence of death, whether housed in close custody or administrative segregation, will be held to the same rules and standards of conduct as other inmates in the same housing unit.

### **12. Inmate Work Opportunities**

Inmates under sentence of death assigned to close custody will have a 60-day waiting period before applying for any inmate worker position.

The hiring department's supervisor will review the TCM contact sheet information and request a referral from the TCM. To be considered for hire, the TCM must give a positive recommendation for the inmate. The appropriate deputy warden will make the final decision to hire.

### **DEFINITIONS**

**Approved Spiritual Advisor:** An IDOC trained volunteer associated with a specific religion.

**Central Office Review Committee:** A committee comprised of the chief and deputy chiefs of the division of prisons.

**Professional Expert:** A person who possesses scientific, technical, or other specialized knowledge, education and credentials, and who has been retained by an attorney of record for an inmate, or by Idaho Department of Correction, to assist in an inmate's criminal case.

### **REFERENCES**

Waiver of Liability

Attachment B, Status Report

Idaho Code Section 19-27

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