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BUPERS INSTRUCTION 1640.24

From: Chief of Naval Personnel

Subj: LIMITING THE USE OF RESTRICTIVE HOUSING WITHIN THE NAVY SHORE
CORRECTIONS SYSTEM

Ref: (a) U.S. Department of Justice Report and Recommendations Concerning the Use of
Restrictive Housing, Final Report, January 2016
(b) Presidential Memorandum (Limiting the Use of Restrictive Housing by the Federal
Government), 1 March 2016
(c) SECNAVINST 1640.9C
(d) BUPERSINST 1640.22

Encl: (1) Restrictive Housing Guiding Principles

1. Purpose. To implement recommendations contained within reference (a) concerning the use of restrictive housing within the Navy Shore Corrections System as directed by reference (b).

2. Scope and Applicability. This policy applies to all Navy shore confinement facilities.

3. Background

a. Per article 4206 of reference (c) and article 1640-040, paragraph 301 of reference (d), within the Navy Shore Corrections System prisoners are housed either within the “general population (GP)” or “special quarters (SQ)”. Per article 1640-040, paragraph 302, of reference (d), SQ includes administrative segregation (AS), protective custody (PC), and disciplinary segregation (DS). The various statuses within AS include, but are not limited to medical, suicide risk, escape risk, prevention of injury/close observation/precautions, pending investigation, loss of privileges, potentially violent and dangerous, and awaiting transfer or transport.

b. Reference (a) provides a definition of “restrictive housing” as any type of detention that involves three basic elements:

- (1) Removal from the general prisoner population, whether voluntary or involuntary;
- (2) Placement in a locked room or cell, whether alone or with another prisoner; and
- (3) Inability to leave the room or cell for the vast majority of the day, typically 22 hours or more.

c. Reference (a) definition of restrictive housing does not neatly align with Navy confinement practices as the number of prisoners in the facility SQ is a very small percentage of the entire population and the SQ plan of the day almost always, unless for cause, allows for time outside of the cell for periods in excess of 2 hours (e.g., recreation, sunshine, shower, or programming, etc.). Nonetheless, many of the reference (a) guiding principles, not inclusive of references (c) and (d), are considered best practices and can be adapted to SQ operations and administration to meet and exceed the intent of references (a) and (b). Granted, on occasion, to safely administer the corrections mission, a segregated prisoner may meet the definitional parameters expressed in paragraph 3b above. Confinement facility commanders must be very sensitive to this population which also triggers reporting requirements per Article 15000 of enclosure (1).

d. For alignment of terminology, “restrictive housing” or the “restrictive housing unit (RHU)” will be considered synonymous with SQ as referred to in references (c) and (d) that includes AS, PC (when housed within the RHU), and DS.

e. Reference (b) amplifies existing naval corrections policies that overuse of restrictive housing in U.S. correctional systems undermines public safety and is contrary to our nation’s values.

f. National correctional reform efforts gave rise to the publication of reference (a) that set forth specific policy recommendations for the Department of Justice (DOJ) Federal correctional system, as well as guiding principles for all U.S. correctional agencies.

g. Reference (b) directed implementation of the policy recommendations contained within reference (a) concerning the use of restrictive housing within the Federal Government. This instruction implements the DOJ “guiding principles” within the Navy Shore Corrections System, as contained within enclosure (1). The provisions of this instruction are essentially supplemental or more stringent to related RHU policies contained within references (c) and (d).

h. Per article 1104 of reference (c), to the greatest extent possible, national accreditation standards issued by the American Correctional Association (ACA) will be followed in determining corrections policies and administering confinement facilities and functions. This instruction is published in advance of proposed ACA standards implementing the restrictive housing guiding principles in order to meet the 180-day implementation period required per reference (b). As applicable ACA standards develop, the Navy Shore Corrections System must also evolve to accommodate changing national correctional standards.

4. Responsibility and Action

a. Commander, Navy Installations Command (CNIC) is responsible for ensuring the provisions of this instruction are implemented within all CNIC pre-trial confinement facilities.

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b. Navy Personnel Command (NAVPERSCOM), Corrections and Programs Office (PERS-00D) will:

(1) Ensure the provisions of this instruction are included within the next revision of references (c) and (d).

(2) Implement the provisions of this instruction within all NAVPERSCOM naval consolidated brigs.

(3) Provide technical assistance and oversight of RHU policies to all Navy commands responsible for shore confinement facilities.

5. Records Management. Records created as a result of this instruction, regardless of media and format, must be managed per Secretary of the Navy Manual 5210.1 of January 2012.

6. Review and Effective Date. BUPERS (BUPERS-00D) will review this instruction annually on the anniversary of the effective date to ensure applicability, currency, and consistency with Federal, Department of Defense, Secretary of the Navy, and Navy policy and statutory authority. This instruction will automatically expire 5 years after effective date unless reissued or otherwise canceled prior to the 5-year anniversary date, or an extension has been granted.



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Deputy Chief of Naval Personnel

Releasability and distribution:

This instruction is cleared for public release and is available electronically only via BUPERS Web site, <http://www.npc.navy.mil/>

RESTRICTIVE HOUSING GUIDING PRINCIPLES

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1000. Restrictive Housing, General

1. Prisoners will be housed in the least restrictive setting necessary to ensure their own safety, as well as the safety of staff, other prisoners, and the public.
2. Confinement facilities must strive to limit the use of the restricted housing unit (RHU) whenever possible, and to the extent used, to limit the length of a prisoner's stay and to identify services; including group educational and therapeutic services that they can safely participate in while in the RHU.
3. In each instance, confinement facilities must clearly articulate and document the specific reason(s) for a prisoner's placement and retention in the RHU. The Corrections Management Information System (CORMIS) is the primary method for documenting all prisoner record entries. The reason(s) and duration for use of the RHU must be supported by objective-based rationale and factual statements. Prisoners will remain in the RHU for no longer than necessary to address the specific reason(s) for their placement.

4. Restrictive housing must always serve a specific correctional purpose. When authorizing the use of the RHU, confinement facilities must clearly articulate the purpose(s) and circumstances within CORMIS.
5. A prisoner's initial and ongoing placement in the RHU will be reviewed regularly (i.e., no less than every 30 days) by the Classification and Assignment (C&A) Board, which shall include not only security and housing staff but also medical and mental health professionals.
6. For every prisoner in the RHU, correctional staff shall immediately plan for returning the prisoner to general population (GP) as soon as practically possible. For prisoners housed in the RHU for longer than 30 days or subject to conditions of paragraph 3b(3), confinement facilities will develop a written "step-down plan" as a supplement to a "special handling letter" for returning the prisoner to less restrictive conditions, including return to GP, as promptly as possible. The contents of both documents shall be shared with the prisoner, unless doing so would jeopardize the safety of the prisoner, staff, other prisoners, or the general public.
7. All correctional staff will be trained annually on RHU policies (inclusive of pre-service and in-service training). Correctional supervisors must ensure compliance with RHU policies and training per personnel qualification standard and reflected in staff training records.
8. Confinement facilities will formally establish a restrictive housing committee, consisting of command and department-level correctional staff to regularly (i.e., not less than semi-annually) evaluate existing RHU policy, develop safe and effective alternatives to use of the RHU, and craft special handling letters and step-down-plan strategies.

2000. End-of-Term Placement

1. Absent a compelling reason, prisoners will not be released directly from the RHU to the community.
2. During the final 180 days of a prisoner's projected release from confinement, confinement facilities must attempt to avoid placing the prisoner in the RHU; particularly, under conditions expressed in paragraph 3b(3) of this instruction. If a prisoner is housed in segregation 180 days out from the end of his or her projected release date, confinement facilities will consider releasing the prisoner to a less restrictive setting if this can be done without endangering the safety of the prisoner, staff, other prisoners, or the public. If segregation becomes necessary during this timeframe, confinement facilities will provide targeted re-entry programming to prepare the prisoner for his or her return to the community.

3000. Disciplinary Segregation (DS)

1. Confinement facilities must adhere to clear, specific published policies, per references (c) and (d), for determining under what conditions a prisoner can be placed in segregation in

response to an alleged disciplinary violation; both during the investigative stage and after an administrative adjudication of guilt.

2. Confinement facilities must work with prosecutors and other law enforcement officials to ensure that prisoners who engage in serious criminal activity are held accountable and face criminal prosecution.

4000. Pre-Adjudication (Administrative Segregation Pending Investigation (ASPI))

1. A prisoner will not be placed in ASPI for a disciplinary offense unless the prisoner's presence in GP poses a danger to the prisoner, staff, other prisoners, or the public. In making this determination, the confinement facility commander or designee will consider the seriousness of the alleged offense, including whether the offense involved violence, involved attempted escape, posed a threat to institutional safety by encouraging others to engage in such misconduct, or for preserving the integrity of the investigation and maintenance of good order and discipline. Adherence to policy and training requirements shall be crafted carefully to ensure that this principle is not overly interpreted to permit the imposition of the RHU for infrequent, lower-level misconduct.

2. Except for cause, a prisoner will not be initially placed in ASPI without prior approval by the confinement facility commander or designee. The confinement facility commander or designee must carefully scrutinize the proposed placement to determine whether segregation is necessary.

3. A prisoner's initial placement in ASPI shall be reviewed within 24 hours by the confinement facility commander or designee, or next working day, given weekends and holidays.

4. Correctional staff shall complete their disciplinary investigation as expeditiously as possible; however, not greater than 7 business days unless for cause and with extension approved by the confinement facility commander or designee. Any time that a prisoner spends in ASPI shall be credited towards the term he or she ultimately serves in DS for that offense. Absent compelling circumstances, such as a pending criminal investigation, a prisoner must not remain in ASPI for a period of time longer than the maximum term of DS permitted for the most serious offense charged per references (c) and (d).

5. A prisoner who demonstrates good behavior during ASPI will be considered by the C&A board for release to the GP while awaiting his or her disciplinary hearing. Similarly, if a prisoner is ultimately adjudicated guilty, the prisoner's good behavior will be given due consideration when determining the appropriate administrative disciplinary action.

5000. Post-Adjudication of Disciplinary Offenses

1. Prisoners who violate disciplinary rules shall be placed in the RHU only as necessary and only after confinement facility staff have concluded that other available sanctions or management actions are insufficient to serve the corrective nature of punishment.

2. Disciplinary sanctions, regardless of whether they involve a period of segregation, will be applied in a manner that is swift, certain, fair, and only after due process as delineated in references (c) and (d).
3. References (c) and (d) outline maximum penalties for each level of offense. These penalties will include alternatives to placement in the RHU. The maximum penalties are based on the seriousness of the offense(s). The RHU will generally be reserved for offenses involving violence, attempted escape, or posing a threat to institutional order and or safety by encouraging others to engage in such misconduct. Adherence to policy and training will be crafted carefully to ensure this principle is not overly interpreted to permit the imposition of the RHU for infrequent, lower-level misconduct.
4. A prisoner will be administratively awarded a term of DS only after correctional staff conducts a disciplinary hearing and the prisoner is adjudicated guilty of the alleged violation. The hearing will be conducted per reference (c), chapter 5, and reference (d), article 1640-050.
5. When a disciplinary hearing officer is confronted with a prisoner who demonstrates symptoms of mental illness, the discipline and adjustment (D&A) board will refer the prisoner to a qualified mental health professional to provide input as to the prisoner's competency to participate in the disciplinary hearing, any impact the prisoner's mental illness may have had on his or her responsibility for the charged behavior, and information about any known mitigating factors in regard to the alleged behavior. The disciplinary hearing officer will also consult with a mental health professional, preferably the treating clinician, as to whether certain types of sanctions (e.g., placement in DS, loss of visits, or loss of phone calls or other privileges, etc.) may be inappropriate because they would interfere with prisoner's rehabilitative treatment plan. Disciplinary hearing officers will take the clinical department findings and recommendations into account when deciding what, if any, sanctions to impose. These actions will be documented on the DD Form 2714 Prisoner Disciplinary Report/Action.
6. Ordinarily, administrative disciplinary actions for offenses that arise out of the same episode will be served concurrently.
7. To incentivize conduct that enhances institutional safety and security, prisoners who demonstrate good behavior and compliance to requirements during DS will be given consideration for early release from the RHU.

6000. Protective Custody (PC)

1. Generally, prisoners who require PC will not be placed in the RHU.
2. When a prisoner faces a legitimate threat from other prisoners, correctional staff must seek alternative housing by transferring the threatened prisoner either to another military confinement facility or to an applicable and safe housing unit with conditions comparable to those of GP. There are two exceptions:

a. When the prisoner poses extraordinary security risks that even an applicable GP housing unit is insufficient to ensure the prisoner's safety and the safety of staff, other prisoners, and the general public. In such cases, the prisoner may be housed in the RHU. The prisoner's placement will be reviewed regularly to monitor any medical or mental health deterioration and to determine whether the extraordinary security risks have subsided.

b. During a brief investigative period while correctional staff attempt to verify the need for PC or while the prisoner is awaiting transfer to another facility.

3. When transferring a prisoner to another military confinement facility for PC reasons, correctional staff will give consideration to a prisoner's release residence, including a desire to be housed close to family.

4. Confinement facilities will track and document the most common reasons that prisoners request PC (e.g., prior cooperation with law enforcement, conviction for sex offense, gang affiliation, sex, or gender identification, etc.) and develop strategies for safely housing these prisoners outside of the RHU.

7000. Preventative Segregation

1. Prisoners will not be placed in long-term restrictive housing unless the confinement facility commander or designee conclude, based on available information and evidence, that no other form of housing will ensure the prisoner's safety and the safety of staff, other prisoners, and the public. This determination will be guided by clearly articulated reasons by the C&A board and documented within CORMIS.

2. The confinement facility commander or designee will regularly review prisoners confined in the RHU with the goal of transitioning them back to GP as soon as it is safe to do so.

3. Applicable prisoners in the RHU (i.e., housed in the RHU for longer than 30 days or subject to conditions of paragraph 3b(3)) will be given the opportunity to participate in incentive or step-down programs that allow them to progress to GP.

8000. Conditions of Confinement

1. The confinement facility RHU plan of the day will be designed to allow prisoners, regardless of status or category, no less than 2 hours outside of their cell, unless for cause. Confinement facilities will seek ways to increase the minimum amount of time that prisoners in the RHU spend outside their cells and to offer enhanced in-cell opportunities. Out-of-cell time must include opportunities for sunshine call, recreation, education, clinically appropriate treatment therapies, skill-building, and social interaction with staff and other prisoners. These authorized opportunities should be documented on the prisoner's special handling letter.

2. As confinement facilities reduce the number of prisoners in the RHU, they must devote resources towards improving the conditions of those remaining in segregation; in particular, taking advantage of lower staff-to-prisoner ratios within the RHU by providing the remaining prisoners with increased out-of-cell time.
3. Confinement facilities must provide out-of-cell, confidential psychological assessments and visits for prisoners whenever possible, to ensure patient privacy and to eliminate barriers to treatment.
4. The RHU must maintain adequate conditions for environmental, health, and fire safety.
5. The denial of basic human needs such as food, water, and head calls must never be used as punishment, whether alone or in conjunction with the use of the RHU per references (c) and (d).

9000. Prisoners with Serious Mental Illness (SMI)

1. A qualified mental health practitioner, in consult with correctional staff, will determine if a prisoner presents a SMI.
2. A prisoner with SMI must not be placed in the RHU, unless:
 - a. The prisoner presents such an immediate and serious danger that there is no reasonable alternative; or
 - b. A credentialed mental health practitioner determines:
 - (1) That such placement is not contraindicated;
 - (2) That the prisoner is not a suicide risk;
 - (3) That the prisoner does not have active psychotic symptoms; and
 - (4) In disciplinary circumstances, that lack of responsibility for the misconduct due to mental illness or mitigating factors related to the mental illness do not contraindicate DS.
 - c. The confinement facility commander or designee will coordinate with qualified mental health authorities to advocate that prisoners with SMI who are diverted from the RHU will be placed in a clinically appropriate alternative form of housing, such as a secure mental health unit or other residential psychological treatment program provided by the nearest naval medical center or local hospital (per existing agreements), or transferred to a confinement facility capable of managing such prisoners. Certain prisoners requiring long-term psychiatric treatment may be transferred to a Federal psychiatric treatment facility, article 7407.3 of reference (c) refers.

d. If a prisoner with SMI is placed in the RHU:

(1) Facility mental health staff will conduct a mental health consultation or evaluation at the time of the prisoner's placement in the RHU;

(2) The prisoner will receive intensive, clinically appropriate mental health treatment for the entirety of the prisoner's placement in the RHU;

(3) The prisoner will receive enhanced opportunities for both in-cell and out-of-cell therapeutic activities and additional unstructured out-of-cell time to the extent that such activities can be conducted while ensuring the safety of the prisoner, staff, other prisoners, and the general public;

(4) At least once per week, a C&A board must review the prisoner's placement in the RHU;

(5) At least once per week, a qualified mental health practitioner, assigned to supervise mental health treatment in the RHU, must conduct face-to-face clinical contact with the prisoner to monitor the prisoner's mental health status and identify signs of deterioration; and

(6) After 30 days in the RHU, the prisoner will be removed, unless the confinement facility commander or designee certifies that transferring the prisoner to an alternative housing is clearly inappropriate. In making this determination, the confinement facility commander or designee will consult with mental health staff who will conduct a psychological evaluation of the prisoner beforehand.

e. Prisoners in the RHU will be screened for signs of SMI. Confinement facilities must implement policies, procedures, and practices to ensure that:

(1) Prior to a prisoner's placement in the RHU (or when that is infeasible, as soon as possible but no later than 24 business hours of placement) medical staff, in collaboration with correctional staff, will promptly review available medical records to determine whether the prisoner has been previously designated as seriously mentally ill or at risk of developing SMI;

(2) Multiple times per day, correctional staff, trained in identifying signs of mental health decompensation, must conduct rounds of the RHU;

(3) At least once per day, medical staff will conduct medical rounds of the RHU;

(4) After 30 days in the RHU, and every 30 days thereafter, all prisoners in the RHU will receive a face-to-face psychological review by mental health staff; and

(5) If at any point a prisoner shows signs of psychological deterioration while in the RHU, the prisoner must be immediately evaluated by mental health staff. At the conclusion of

this review, mental health staff will recommend to the confinement facility commander or designee whether the prisoner requires immediate transfer to a medical facility or other treatment center, as well as whether the prisoner must receive enhanced mental health services and or referred to a clinically appropriate alternative form of housing.

10000. Juveniles (Under 18 at time of Confinement). In the rare situation a military member under the age of 18 is confined, the following processes are applicable.

1. Juveniles will not be placed in the RHU.
2. In very rare situations, a juvenile may be separated from others as a temporary response to behavior that poses a serious and immediate risk of physical harm to any person. Even in such cases, the placement must be brief, designed as a “cool down” period, and done only in consultation with a credentialed mental health professional.

11000. Young Adults (Age 18-24 at time of Confinement)

1. All correctional staff will receive initial and continual training on young adult brain development, and appropriate de-escalation tactics. Training will incorporate reliable, evidence-based science.
2. Correctional facilities will incorporate developmentally responsive procedures and practices for young adults, as resources allow.

12000. Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI) and Gender Nonconforming Prisoners. The Department of Justice Prison Rape Elimination Act national standards apply.

1. Prisoners who are LGBTI or whose appearance or manner does not conform to traditional gender expectations must not be placed in the RHU solely on the basis of such identification or status.
2. When a prisoner who is LGBTI or gender nonconforming prisoner faces a legitimate threat from other prisoners, correctional staff must seek alternative housing, with conditions comparable to those of GP to the extent possible.
3. Correctional staff can sometimes avoid the unnecessary use of the RHU for PC reasons by making different classification or housing assignments. In deciding whether to assign a transgender or intersex prisoner to a facility or program for male or female prisoners, correctional staff leadership must consider on a case-by-case basis whether a placement would ensure the prisoner’s health and safety, giving serious consideration to the prisoner’s own personal views.

13000. Pregnant and Post-Partum Prisoners

1. Female prisoners who are pregnant, who are post-partum, who recently had a miscarriage, or who recently had a terminated pregnancy must not be placed in the RHU. Medical authorities must be consulted as applicable.
2. In rare situations, a female prisoner who is pregnant, is post-partum, recently had a miscarriage, or recently had a terminated pregnancy may be placed in the RHU as a temporary response to behavior that poses a serious and immediate risk of physical harm to self or others. Even in such cases, this decision must be approved by the agency's senior official overseeing women's programs and services (e.g., NAVPERSCOM (PERS-00D)), in consultation with senior officials in health services, and must be reviewed every 24 hours.

14000. Prisoners with Medical Needs

1. All prisoners in the RHU must have unfettered access to appropriate medical care, including prescribed medications and emergency medical care.
2. When a confinement facility lacks the capacity to provide appropriate medical care to a prisoner in the RHU, that prisoner will be transferred to an appropriate facility where he or she can receive necessary medical treatment.

15000. Data Collection and Transparency. Confinement facilities will collect and input data about several aspects of their use of restrictive housing via the CORMIS; though specifically, for facility and agency reporting purposes, the "restrictive housing" definition used in reference (a) and paragraph 3b(3) of this instruction will be used.

1. System-wide data. Data to be collected via CORMIS includes the incidence and prevalence of restrictive housing, including the total number of prisoners in each type of AS, RHU recidivism rates (i.e., intra-facility), and the average length of stay. This annual (calendar year) consolidated information will be publicly available on the NAVPERSCOM (PERS-00D) Corrections public Web site. It will include demographic information for prisoners, including race, national origin, religion, gender, gender identity, sexual orientation, disability status, and age, to the extent that the collection and publication of such information complies with all applicable laws.
2. Prisoner-level data. This data will allow confinement facilities to track individual prisoners throughout their confinement period. This will allow facilities to determine whether, how often, and how long a particular prisoner has been placed in segregation, including the prisoner changes in status (e.g., from ASPI to DS). This information will be made available to correctional staff, to the extent consistent with applicable law, as a way to identify correctional and rehabilitative strategies to treat disruptive prisoners, and must not be released publicly.

3. Correctional Officer Data. CORMIS provides reports that facilitate implementation of an early intervention system, a management tool that promotes supervisory awareness and helps leadership identify trends, revise policy as needed, and deploy additional staff training where necessary. This information must not be released publicly.