



Virginia Department of Corrections

Offender Management and Programs

Operating Procedure 830.6

Offender Keep Separate Management

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Incarcerated Offender

ACA/PREA Standards:

5-ACI-3D-08, 5-ACI-4A-05; 4-4251, 4-4281;
§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. Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

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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; a "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 the offender's conviction and/or length of sentence was likely influenced by the testimony
- 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)

Relatives - DOC offenders 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 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 restorative housing for one or both parties

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 (DOC).

PROCEDURE

- I. Immediate Separation of Offenders
 - A. Any staff member who becomes aware of a possible need to separate offenders should immediately notify the Shift Commander or administrator on duty.
 - B. When the Shift Commander or higher authority determines there is an immediate need to separate offenders because a potentially dangerous situation exists, or because there may be an escalation of a conflict and the safety of staff or offenders may be threatened, they must take appropriate measures to protect those offenders involved and maintain the security of the institution. (5-ACI-3D-08; 4-4281)
 1. Appropriate measures may include but are not limited to internal separation or placement on General Detention in a Restorative Housing Unit; see Operating Procedure 841.4, *Restorative Housing Units*.
 2. It is the responsibility of each Shift Commander or higher authority to assign keep separate claimants to restorative housing on General Detention only after all other alternatives have been ruled out and the safety of staff or offenders may be threatened. (5-ACI-4A-05; 4-4251)
 3. Offenders placed in General Detention will be referred for an Institutional Classification Authority (ICA) hearing to review the case and make a recommendation regarding the need for assignment to restorative housing, Keep Separate documentation, or other actions.
 - C. When the Shift Commander or higher authority receives information related to a possible Keep Separate situation that does not require immediate separation of the offenders 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 Keep Separate Situations
 - A. The Institutional Investigator or other appropriate investigating staff will gather information and investigate keep separate situations as needed.
 - B. Administrative Separation
 1. Occasionally, it is necessary 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 e.g., co-defendants, relatives, etc.
 2. Supervisory or Management staff only can refer an offender to the ICA for administrative action to assign a keep separate status due to enemies, co-defendants, and relatives:
 - a. The staff member should document the separation reason requested i.e., serious threat to one another, co-defendants, relatives, etc.
 - b. The staff member must provide documentation of each incident that led to the need for separation.
 - c. Offenders must not be involved in the threat evaluation or notified of the results of any administrative action to assign a keep separate status.
 3. All such actions require review by Central Classification Services.
 - C. Offender Keep Separate Claims
 1. An offender claiming another offender as a keep separate should be required to provide investigating staff with sufficient information to properly identify the claimed keep separate, including the following elements:
 - a. Offender's name and DOC number, if known

- b. Nickname, if any
 - c. Physical description - Where necessary and feasible, an identifying photograph may be used.
 - d. Location, if known
 - e. Known associates with other offenders or offender groups
 - f. Specific circumstances which led to the claim
 - g. Any other relevant information
2. Offender Interviews
 - a. Investigating staff will interview the offender and evaluate the offender's keep separate claim in a timely manner.
 - b. The offender should provide as much information as possible, including any means of verifying the keep separate claim.
 3. Investigation
 - a. Investigating staff will attempt to verify the situation that led to the 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 offenders involved if it may place the claimant or other offenders at greater risk.
 - c. When the investigation finds sufficient evidence that a disciplinary offense has been committed, it is the responsibility of investigating staff to initiate appropriate disciplinary charges. Conviction of the disciplinary charge then becomes the basis for possible offender separation.
 4. Staff evaluating keep separate claims for validity should rely on specific, documented evidence, provided by 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.
 5. The investigating official must determine if a keep separate claim should be initiated, once the offender's keep separate claim is investigated and evaluated. A keep separate claim should be initiated where there is verified evidence of the following:
 - a. 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 offender
 - b. The claimant 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.
 - c. The claimant's crime was committed against another DOC offender or the offender's immediate family.

III. Keep Separate Determination

A. Summary Report

1. 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 the staff member's conclusions regarding the need for a keep separate determination.
2. 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.
3. The summary report and all supporting documentation must be submitted to the ICA for consideration during the ICA hearing.

B. ICA Review

1. The ICA will conduct a hearing to review the information provided and will render a decision to approve or disapprove the keep separate determination; see Operating Procedure 830.1, *Institution*

Classification Management.

2. Where the summary report and investigation results show insufficient supporting documentation to validate the incident that led to the need for separation, the ICA should recommend disapproval.
3. The Summary Report and other relevant documents should be uploaded as external documents to the VACORIS ICA hearing record.

C. Management Review

1. When the Facility Unit Head or designated review authority recommends approval or a change in an offender's keep separate classification, the decision will be escalated to Central Classification Services (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.

D. Offender notification

1. Appropriate institutional staff will notify the offender in writing of the final decision on approval and disapproval of offender initiated keep separate claims.
2. Offenders must not be notified of keep separates added by administrative request.

IV. 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 institutions where adequate security restrictions should prevent offenders from ever coming in contact 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 assigned to restorative housing, the offender should immediately be reviewed for return to the general population.
 - a. If deemed appropriate, institutional staff may desire to separate such offenders internally 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*; see Operating Procedure 830.5, *Transfers, Institution Reassignments*.

V. Deleting Keep Separate Information

A. It is important that staff carefully evaluate offender requests to delete a keep separate designation.

1. Offenders may request to delete only those offenders who are listed as a keep separate, based solely on the requesting offender's keep separate claim.
2. The offender must submit a written request, preferably notarized, to the Counselor.
3. At each offender's annual review, the Counselor should encourage deletion of those offenders who are no longer valid keep separates.

B. Counselor Evaluation

1. The Counselor will evaluate the offender's request for validity in the same manner as for adding a keep separate and must submit a summary report to the ICA.
2. Verification with other institutions may be necessary to determine the specifics regarding an incident

that led to the initial keep separate status; however, care should be taken to ensure confidentiality in situations where the other offender is not aware of having been claimed as a keep separate.

C. Management Review

1. The ICA and the Facility Unit Head or designated authority will conduct a review as outlined in this operating procedure for adding a keep separate.
2. Once CCS has approved or disapproved the keep separate deletion and has entered the decision in VACORIS, the offender's Counselor must notify the offender of the final decision.

D. Non-Keep Separate Reviews

1. The institution administration and CCS should periodically review any issues where a keep separate claim was disapproved in order to determine if there has been any change in the situation.
2. If the review indicates that the issues no longer exists, the Facility Unit Head may request that the listed offenders' separation status be deleted.
3. Such actions are to be fully justified and reviewed by CCS for deletion.

VI. Initial Classification Keep Separate Checks

A. Reception Center and other intake unit staff will interview newly received offenders as to any known keep separates in the DOC.

1. Keep separate claims will be investigated and evaluated in accordance with the requirements of this operating procedure.
2. Only those offenders with a DOC number can be entered as a keep separate in VACORIS.
3. Potential keep separate situations for jail offenders without a DOC number should be documented for a follow-up review in the offender's record.

VII. 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.

VIII. Confidentiality

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

IX. Offender Appeals

Offenders may appeal the decision on their keep separate claim through the Offender Grievance Procedure.

REFERENCES

Operating Procedure 830.1, *Institution Classification Management*

Operating Procedure 830.5, *Transfers, Institution Reassignments*

Operating Procedure 841.4, *Restorative Housing Units*

ATTACHMENTS

None

FORM CITATIONS

None

