

Appendix V
THE USE OF SOLITARY CONFINEMENT
A COMPARISON BETWEEN NATIONAL STANDARDS AND NORTH CAROLINA STANDARDS¹

ISSUE	American Bar Association	North Carolina ²
Source(s)	American Bar Association, <i>Criminal Justice Standards on the Treatment of Prisoners</i> , Approved by the ABA House of Delegates, February 2010	State of North Carolina – Department of Correction – Division of Prison, <i>Policy & Procedures, available at</i> http://www.doc.state.nc.us/dop/policy_procedure_manual/
Overview of terms and classifications	<p>Segregated housing: housing of a prisoner in conditions characterized by substantial isolation from other prisoners, whether pursuant to disciplinary, administrative, or classification action. This includes restriction of a prisoner to the prisoner’s assigned living quarters. 23-1.0(r)</p> <p>Long-term segregated housing: segregated housing expected to extend or does extend for a period of time exceeding 30 days. 23-1.0(o)</p> <p>If long-term segregation is being considered, the prisoner should be afforded: (ii) decision-making by a specialized classification committee that includes a qualified mental health care professional. 23-2.9.</p> <p>Correctional authorities should use long-term segregated housing sparingly and should not place or retain prisoners in such except for reasons relating to: (i) discipline for severe disciplinary infraction; (ii) credible continuing and serious threat; or (iii) prevention of airborne contagion. 23-2.7(a)</p> <p>Correctional authorities should not place a prisoner in long-term segregated housing based on the security risk the prisoner poses to others unless less restrictive alternatives are unsuitable in light of a continuing and serious threat to the facility’s security, staff, other prisoners or the public because of prisoner’s: (i) history of serious violent behavior in correctional facilities; (ii) escapes or attempted escapes from correctional settings; (iii) acts/ threats of violence likely to destabilize the institutional environment; (iv) membership in a security threat group and a finding – based on specific and reliable information – that the prisoner engaged in or directs dangerous or threatening behavior; or (v) incitement or threats to incite group disturbances. 23-2.7(b)</p> <p>A prisoner should be placed or retained in long-term segregated housing only after an individualized determination, by a preponderance of the evidence. 23-2.9</p> <p>Except in compelling circumstances, a prisoner serving a sentence who would otherwise be released directly to the community from long-term segregated housing should be placed in a less restrictive setting for the final months of confinement. 23-2.9(f)</p> <p>Extreme Isolation: Conditions of extreme isolation should not be allowed regardless of the reasons for a prisoner’s separation from the general population. 23-3.8</p> <p>Conditions of extreme isolation generally include a combination of sensory deprivation, lack of contact with other persons, enforced idleness, minimal out-of-cell time, and lack of outdoor recreation. 23-3.8</p>	<p>Administrative Segregation (ASeg): the classification status for prisoners who must be temporarily segregated from the general prisoner population. This segregation status may be in a single cell or other housing unit determined appropriate by the facility head. Initial placement is primarily utilized for short-term removal from the regular population for administrative purposes based upon one or more of the following conditions:</p> <ul style="list-style-type: none"> (A) to protect staff and other prisoners from the threat of harm by the prisoner; (B) to minimize the risk of escape by the prisoner or others influenced by his/her actions; (C) to preserve order; (D) to provide necessary control while completing an investigation; or (E) to remove an prisoner from the population as a cooling off measure. C .1200 <ul style="list-style-type: none"> • Prisoners may be held in Dseg up to 60 days. C .0302(e) <p>Disciplinary Segregation (DSeg): the classification status assigned to prisoners who are subject to punishment pursuant to authorized Division disciplinary procedures following being found guilty of a rule violation. Disciplinary Segregation housing units will be established at various facilities within the Division of Prisons approved by the Director of Prisons to the extent necessary in order to enforce prisoner conduct rules. C.1200.</p> <ul style="list-style-type: none"> • Prisoners may be held in Dseg up to 60 days. B .0204(a) <p>Intensive Control (Icon): a classification status for prisoners who have shown disruptive behavior through disciplinary offenses, assaultive actions or confrontations, or who are so continuously a disruptive influence on the operation of the facility that they require more structured management by prison authorities. Intensive Control status is generally less restrictive than the Maximum Control status. C.1200</p> <ul style="list-style-type: none"> • There is no maximum limit to the time a prisoner may be held in Icon. C .1302 • Individuals with mental illness may be considered for Therapeutic Control, a status “that recognizes both the need for security as well as the need for treatment of mental illness.” C. 0302(f) <p>Maximum Control (Mcon): the classification status established which requires the isolation of prisoners who pose an imminent threat to the safety of staff or other prisoners or who otherwise pose a serious threat to the security and operational integrity of the prison facility. Maximum Control housing units will be established at various facilities within the Division of Prisons approved by the Director of Prisons. Normally these housing units will be in the most secure areas within major institutions of the Division of Prisons. Prisoners classified to Maximum Control will be subject to conditions as outlined in the following conditions of confinement policy. Prisoners shall be assigned to Maximum Control for the period of time necessary to minimize their threat to staff and other prisoners as determined by the</p>

¹ This chart is an expansion of a chart produced by the ACLU National Prison Project. See ACLU NATIONAL PRISON PROJECT, THE USE OF SOLITARY CONFINEMENT: A COMPARISON BETWEEN DX PRACTICES, BOP POLICIES, AND NATIONAL STANDARDS (2012), available at http://www.probono.net/prisoners/stopsol-education/416622.Chart_Comparison_of_Solitary_Confinement

² The information included in the North Carolina column only addresses administrative segregation, disciplinary segregation, intensive control, maximum control, and high-security maximum control. The following classifications have been excluded from this column due to being beyond the targeted scope of this report: protective custody, safekeeper, and death row.

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		<p>appropriate classification authority. C.1200</p> <ul style="list-style-type: none"> • There is no maximum limit to the time a prisoner may be held in Mcon. C .0401(b) • Individuals with mental illness may be considered for Therapeutic Control, a status “that recognizes both the need for security as well as the need for treatment of mental illness.” C. 0402(a)(5) <p>High Security Maximum Control (Hcon): the classification status established for prisoners who pose the most serious threat to the safety of staff and other prisoners or who pose the most serious threat to the security and integrity of prison facilities and require more security than can be afforded in Maximum Control. C .1700</p> <ul style="list-style-type: none"> • There is no maximum limit to the time a prisoner may be held in Hcon. C. 1702 • No inmate with a formal diagnosis of serious mental disorder or mental retardation should be assigned to high security maximum control unless approved by the Division Mental Health Director. C .1701(b)(2)
<p>Acceptable reasons to place a prisoner in long-term solitary confinement</p>	<p>Note, these are intended to be the only acceptable reasons to place prisoners in solitary confinement for longer than 30 days:</p> <p>If less restrictive alternatives to long-term segregation are unacceptable because of a continuing and serious threat to the security of the facility because of a prisoner’s...</p> <ul style="list-style-type: none"> - Concrete history of violent behavior - Acts such as escapes or attempted escapes - Acts or threats of violence that would destabilize institutional environment - Gang membership - Incitement of or threats to incite riots <p>23-2.7</p>	<p>Note, these are reasons that would allow placing prisoners in solitary confinement for longer than 60 days:</p> <ul style="list-style-type: none"> - <i>To protect others</i> from harm. C .1301(a) (lcon) - <i>To minimize risk of escape.</i> C .1301(a) (lcon) - <i>To preserve order</i> if everything else has failed. C .1301(a) (lcon) - If necessary for completion of investigation. C .1301(a) (lcon) - Concrete acts: <ul style="list-style-type: none"> o Aggravated assault—C .0401(a) (Mcon) o Serious assault—C .1701(a) (Hcon) o Riot or mutiny—C .0401(a) (Mcon); C .1701(a) (Hcon) o Holding hostages—C .0401(a) (Mcon); C .1701(a) (Hcon) - <i>Good cause to believe danger to physical wellbeing of inmates or staff</i>—C .0401(a) (Mcon) <ul style="list-style-type: none"> o ...or of operation of Division of Prisons— C .1701(a) (Hcon)
<p>Conditions</p>	<p>In General:</p> <ul style="list-style-type: none"> • No prisoner should be subjected to cruel, inhuman or degrading treatment or conditions. 23-1.1(d) • Correctional authorities should provide prisoners with: humane and healthful living conditions; necessary health care; opportunities to participate in constructive activity and rehabilitative programs; and comprehensive re-entry planning <p>23-1.2(a)</p> <ul style="list-style-type: none"> • After consultation with each prisoner, correctional authorities should develop an individualized programming plan for the prisoner, in accordance with which correctional authorities should give each prisoner access to appropriate programs, including educational opportunities, mental health and substance abuse treatment and counseling. 23-8.2(b) <p>In Segregation Housing:</p> <ul style="list-style-type: none"> • Segregated housing should be for the briefest term and under the least restrictive conditions practicable 23-2.6 • Correctional authorities should be permitted to physically separate prisoners in segregated housing from other prisoners but should not deprive them of those items or services necessary for the maintenance of psychological and physical wellbeing. 23-3.8(a). <p>23-3.8(c)</p> <p>In Long-Term Segregation:</p> <ul style="list-style-type: none"> • Segregated housing should be for the briefest term and under the least restrictive conditions 	<p>Sanitation, Hygiene</p> <p>Housing facilities shall be adequately heated, properly lighted, and adequately ventilated and inspected daily or more often. C .1203(a).</p> <p>Unless specifically restricted under the provisions of this policy, inmates assigned [Aseg, Dseg, MCon, lcon, and Hcon] row will have the opportunity to shave and shower at least three times per week. Showers will be limited to a maximum of ten (10) minutes per day. C.1205(a).</p> <ul style="list-style-type: none"> • An inmate may be denied shower and shave on a daily basis for refusing to comply with control procedures. C.1205(c) • Inmates who present a threat to the order of security of the institution may be showered and shaved individually in full restraints if necessary. C.1205(e) <p>Exercise</p> <p>Inmates assigned to [Aseg, Dseg, lcon, Mcon, and Hcon] shall be allowed one hour per day, five days per week exercise outside the cell, unless safety or security considerations dictate otherwise. C.1206(b).</p> <ul style="list-style-type: none"> • Outdoor exercise cells should be used as the primary exercise areas except during inclement weather or for security reasons. C.1206(c). • Exceptions to the requirement for exercise periods may be approved by the Regional Director upon consultation with the Director of Prisons. Causes for requesting exceptions may include but are not limited to, facility needs and contingencies created by prison emergencies, natural disasters, or loss or curtailment of physical plant operations as the result of construction or renovation projects. C.1206(d).

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	<p>practicable 23-2.6</p> <ul style="list-style-type: none"> For the duration of each prisoner's confinement, the prisoner should be engaged in constructive activities that provide opportunities to develop social and technical skills, prevent idleness and mental deterioration, and prepare the prisoner for eventual release. 23-8.2(a) <p>Housing in Segregation Correctional authorities should provide each prisoner, at a minimum, with a bed and mattress off the floor, a writing area and seating, an individual secure storage compartment sufficient in size to hold personal belongings and legal papers, a source of natural light, and light sufficient to permit reading. 23-3.3(b)</p> <p>Sanitation & Hygiene Correctional authorities should provide sufficient access to showers at an appropriate temperature to enable each prisoner to shower as frequently as necessary to maintain general hygiene. 23-3.3(c)</p> <p>Exercise Each prisoner, including those in segregated housing, should be offered the opportunity for at least one hour per day of exercise, in the open air if the weather permits. 23-3.6(b).</p> <p>Food</p> <ul style="list-style-type: none"> Correctional authorities should not withhold food or water from any prisoner. The standard menu should not be varied for any prisoner without the prisoner's consent, except that alternative food should be permitted for a limited period for a prisoner in segregated housing who has used food or food service equipment in a manner that is hazardous to the prisoner or others, provided that the food supplied is healthful, palatable, and meets basic nutritional requirements. 23-3.4(c) Correctional authorities should whenever practicable allow each prisoner not in segregated housing to eat in a congregate setting, whether that is a specialized room or a housing area dayroom, absent an individualized decision that a congregate setting is inappropriate for a particular prisoner. Prisoners should be allowed an adequate time to eat each meal. 23-3.6(c) <p>Mental Stimulation</p> <ul style="list-style-type: none"> All prisoners in segregated housing should be provided with meaningful forms of mental, physical, and social stimulation which should include: <ul style="list-style-type: none"> (i) in-cell programming for prisoners not permitted to leave their cells; (ii) additional out-of-cell time; (iii) opportunities to exercise in the presence of other prisoners, although, if necessary, separated by security barriers; (iv) daily face-to-face interaction with both uniformed and civilian staff; and (v) access to radio or T.V. for programming or mental stimulation, although such access should not substitute for human contact described in (i) to (iv). <p>Visits A prisoner's personal visitation privileges should not be suspended for longer than 30 days. 23-3.7</p>	<ul style="list-style-type: none"> An inmate may be denied exercise on a daily basis for refusing to comply with control procedures. C.1206(e). Inmates who present a threat to the order of security of the institution may be showered and exercised individually in full restraints if necessary. C.1206(g). <p>Food Food may not be used as a form of disciplinary punishment. B.0204(e)(12) The Department of Public Safety is to provide safe, nutritionally appropriate and palatable meals to prisoners held in solitary confinement. N.C. DOP Food & Nutrition Mgmt. Policies & Procedures 900.0 (2012).</p> <p>Canteen</p> <ul style="list-style-type: none"> Inmates assigned to [<u>I</u>con, <u>M</u>con, and <u>H</u>con] shall be afforded no canteen privileges with the following exceptions: They may purchase a radio, a watch, and shower shoes on an as needed basis. They may purchase postage stamps, limited over the counter medication and three radio batteries per week. Prior to purchasing new batteries, the old batteries must be turned in. Control Population Hygiene Kits will be supplied by the facility. C.1209(c). Inmates assigned to [<u>I</u>con, <u>M</u>con, <u>H</u>con] do not have canteen privileges, therefore they must request medication through sick call, as opposed to purchasing medication from the canteen. The only exception for this as . . . is that they may purchase limited over the counter medication such as Tylenol and antacid. C.1209(d). <p>Mental Stimulation</p> <ul style="list-style-type: none"> Assigned inmates may have personal property including authorized religious material, books and magazines not exceeding two (2) cubic feet. C.1210(a). Inmates assigned to [<u>A</u>seg, <u>I</u>con, <u>M</u>con, <u>H</u>con, and <u>D</u>seg] will not be authorized television privileges. C.1211(b). Assigned inmates will be permitted to use authorized radios with an earplug/earphone. No inmate shall be allowed to have in his/her possession more batteries than required to operate his/her radio. C.1212(a). Inmates assigned to Dseg will not be permitted to use a radio while in that status. C.1212(c). <p>Telephone</p> <ul style="list-style-type: none"> Inmates assigned to [<u>A</u>seg, <u>I</u>con, <u>M</u>con] will be allowed telephone privileges based on control and safety considerations as designated by the Facility Head. C.1214(a). Inmates assigned to [<u>D</u>seg and <u>H</u>con] will be allowed limited telephone privileges except for calls related specifically to access to the attorney of record, based on control and safety considerations as designated by the Facility Head. C.1214(b). <p>Visits [<u>A</u>seg, <u>D</u>seg, <u>M</u>con, <u>I</u>con, <u>M</u>con, and <u>H</u>con] offenders will normally visit only in the noncontact visiting area. C.1215(b).</p> <p>Inmates assigned to [<u>I</u>con, <u>M</u>con, <u>H</u>con] shall have visitation restricted to two times every thirty (30) days. The thirty (30) days will begin at the initiation of the first visit. C.1215(d).</p>