

 <p>DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS</p> <p><b>POLICY AND PROCEDURE</b></p>	<b>EFFECTIVE DATE:</b>	December 1, 2023	<b>Page 1 of 7</b>	
	<b>SUPERSEDES:</b>	4090.5A August 10, 2016		
	<b>OPI:</b>	PROGRAMS		
	<b>REVIEW DATE:</b>	December 1, 2024		
	<b>Approving Authority</b>	Thomas Faust Director		
	<b>SUBJECT:</b>	<b>COOPERATING WITNESS SECURITY</b>		
	<b>NUMBER:</b>	<b>4090.5B</b>		
<b>Attachments:</b>	NONE			

**SUMMARY OF CHANGES:**

§11. b.	<i>Language was added to include the factors of placement in the Cooperator's Unit.</i>
	<i>Minor changes throughout the policy.</i>

**APPROVED:**



**Thomas Faust, Director**

12/1/2023

**Date Signed**

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1. **PURPOSE AND SCOPE.** To establish uniform procedures for the protection, housing and transfer of inmates cooperating with the government (Cooperating Witnesses) who are in, entering into, or leaving the custody of the DC Department of Corrections (DOC).
2. **POLICY.** It is DOC policy to protect and maintain the safety and security of all inmates in DOC custody.
3. **NOTICE OF NON-DISCRIMINATION**
  - a. In accordance with the DC Human Rights Act of 1977, as amended, DC Official Code section § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intra-family offense, or place of residence or business. Sexual harassment is a form of sex discrimination which is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.
4. **PROGRAM OBJECTIVES.** The expected results of this program are:
  - a. The security and safety needs of each cooperating witness will be assessed and documented.
  - b. Cooperating witnesses will be protected from intimidation and physical harm from others.
  - c. Cooperating witness housing and other activities will be coordinated and monitored through an accurate, comprehensive and secure information system.
  - d. All information about cooperating witnesses will be treated as confidential and handled on a “need to know basis.”
5. **AUTHORITY**
  - a. DC Code § 24-211.02, Powers; promulgation of rules

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## 6. DIRECTIVES REFERENCED

### a. Directives Rescinded

PP 4090.5A Cooperating Witness Security (8/10/16)

### b. Directives Referenced

PP 4353.3 Separation Cases

7. **STANDARD REFERENCED.** American Correctional Association (ACA) 4th Edition Standards for Local Detention, Facilities: 4-ALDF-6A-07.

8. **DEFINITIONS:** For the purposes of this Program Statement, the following definition shall apply:

**Separatee(s)** – Individuals who are identified either by the US Marshal Services, the Courts, United States Attorney’s Office or DOC as a serious threat or danger to the cooperating witness(es), other inmates, DOC staff, volunteers and contractors.

## 9. COOPERATING WITNESSES (AKA COOPERATORS WITNESS

**PROTECTION/GOVERNMENT WITNESS)** - Individuals who agree to cooperate with law enforcement, judicial or correctional authorities, and who frequently place their lives or safety in jeopardy by being or intending to be witnesses against persons or groups allegedly involved in illegal activities.

There are two types of cooperating witnesses:

- a. *Judicial/Court Witnesses* – Individuals whose designation as a cooperating witness is initiated by the prosecuting attorney in a criminal case. These cooperating witnesses are utilized in both U.S. District and D.C. Superior Court cases and provide invaluable assistance to the U.S. Attorney’s Office in obtaining arrests and convictions of individuals who commit serious crimes in the District of Columbia.
- b. *DOC Cooperating Witnesses* – Individuals who cooperate with authorized DOC officials during internal investigations into suspected illegal activities of DOC staff, contractors, volunteers or inmates at the CDF.

10. **REQUESTS TO SEPARATE INMATES AND/OR TRANSFER AN INMATE TO THE COOPERATORS’ UNIT.** Requests to separate an inmate from other inmates and/or to transfer an inmate to the Cooperators’ Unit at the Correctional Treatment Facility (CTF) are typically initiated by the United States Attorney’s Office (USAO)

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through the Victim Witness Assistance Unit (VWAU), but such requests can also be initiated by the DOC and United States Marshals Service (USMS)-District Court.

a. Requests Initiated by USAO Through the VWAU:

- 1) Superior Court Inmates: If the cooperator is a Superior Court inmate, the VWAU shall send the request electronically to DOC's Case Management Services/Witness Coordinator or designee, the Superior Court cellblock and the USMS designee. The USMS, through its designee, shall maintain a list of separations and shall ensure that the separations are in place any time the USMS transports a Superior Court inmate.
- 2) District Court/Federal Inmates: If the cooperator is a federal inmate, the VWAU shall forward the request to the Deputy U.S. Marshal in District Court or his/her designee. If necessary, the USMS may return the request to the VWAU for additional information. The USMS shall review all information and make a decision based on security concerns. Upon receipt of the request from the VWAU, and after making its decision, the USMS shall be responsible for disseminating the request to DOC's Case Management Services/Witness Coordinator or designee (or other designated correctional facility) and the District Court cellblock.
- 3) All requests shall provide information about the criminal case, the role of the cooperator, and the reason for the separation(s) and/or transfer.

b. Requests Initiated by DOC. If the DOC seeks to have an inmate separated and/or transferred to the Cooperators' Unit, the DOC Director or designee shall provide DOC Case Management Services/Witness Coordinator or designee with a request for an inmate's separation from other inmates and/or placement in the Cooperator's Unit and include all necessary documentation supporting the request.

c. Requests Initiated by the United States Marshals Service. If the USMS seeks to have a federal inmate separated and/or transferred to the Cooperators' Unit, the USMS shall provide DOC Case Management Services/Witness Coordinator or designee with a request for a federal inmate's separation from other inmates and/or placement in the Cooperators' Unit and include all necessary documentation supporting the request.

d. Whenever inmate separations and/or transfers are requested, each request from the USAO through the VWAU, the DOC Director or designee, or the USMS shall be in writing and contain all supporting documentation. Complete

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- requests should provide DOC's Case Management Services/Witness Coordinator or designee with a complete list of those inmates who represent a threat to the cooperating witness.
- e. The VWAU will notify the USMS and the DOC in writing about any amendments or changes to inmate separation requests. Such notice will be provided by email, with an acknowledgment requested, or by facsimile, the receipt of which must be confirmed.
  - f. Inmates returning on a Writ for testimony for a period of six months cannot be admitted in the cooperators wing. They will remain at the jail until the conclusion of their testimony.
  - g. The DOC may use any additional and relevant information at its disposal to determine the level of danger for the cooperating witness and to determine appropriate housing placement.

## **11. INITIATION OF SEPARATION(S) AND/OR TRANSFER TO THE COOPERATORS' UNIT**

- a. Upon receipt of a request for separation(s) and/or transfer, DOC Case Management Services/Witness Coordinator or designee shall review all documentation and determine if the cooperator meets all eligibility requirements for separation(s) and/or placement in the Cooperators' Unit. After reviewing all information available, and if the cooperator meets all eligibility requirements, DOC Case Management Services/Witness Coordinator or designee shall initiate the separation(s) and/or transfer to ensure that the cooperating witness is separated from all indicated inmates and/or transferred to a secure housing location.
- b. The DOC Case Management Services/Witness Coordinator or designee is the final and ultimate decision maker as to the placement of inmates into the Cooperator's Unit. Placement in the Cooperators' Unit is dependent on a variety of factors that DOC's Case Management Services considers. If DOC's Case Management Services determine that a particular inmate's placement into the Cooperators' Unit would pose a threat to the safety and security of that particular inmate, other inmates being housed in the Cooperators' Unit, or jail operations, an alternative housing arrangement offering equal or higher security will be provided for the inmate at issue. A Cooperating Witness may not necessarily be transferred to the Cooperators' Unit. Inmates who are cooperators may be housed at the DC Jail on Protective Custody or Special Handling, or transferred to the CTF's Cooperators' Unit, General Population, the Special Management Unit (SMU), or outsourced.

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## 12. THE FOLLOWING PLACEMENTS ARE AVAILABLE FOR COOPERATING WITNESSES AND TOTAL SEPARATIONS

- a. *Protective Custody (PC)* – A designation assigned to an inmate requesting or requiring protection from other inmates for reasons of health or safety. A cooperator who is currently on PC status at the DC Jail is usually not eligible for the Cooperators’ Unit at CTF; however, if he meets all other eligibility requirements, he can sign a form to waive PC status to be placed on the Cooperator’s Unit.
- b. *Special Handling* at the Central Detention Facility (CDF) – A designation assigned to an inmate who requires heightened security measures due to a documented history of high profile cases, escapes, attempted escapes, assaultive and/or disruptive behavior, or by court order. Inmates on Special Handling are not eligible for placement on the Cooperator’s Unit and must be housed in the Restrictive Housing Units at the Central Detention Facility.-
- c. *Cooperators’ Unit* – a general population unit in the Correctional Treatment Facility (CTF) designed to house cooperating inmates who have agreed to cooperate with law enforcement, judicial or correctional authority, who place their lives in jeopardy by being a witness against persons or groups involved in illegal activities. Inmates who meet eligibility requirements are referred to this unit by USMS, USAO, and/or DOC officials: however, the final decision as to the inmate’s placement is made by the DOC Case Management Services/Witness Coordinator or designee.
- d. *The Special Management Unit (SMU) at CTF* – A unit designed for complete separation from other inmates for their safety, security and safety of others. It is also a unit for disciplinary issues, special handling, protective custody, administrative segregation and total separation. Cooperators can be removed from the Cooperators’ unit and placed in SMU.
- e. *Outside Facility* – If circumstances prevent the housing of an inmate (cooperator or non-cooperator) at DOC in a safe, secure and orderly manner, the inmate may be housed in a facility outside of the District of Columbia. Federal inmates (cooperator or non-cooperators) will be housed in facilities designated by the USMS. District of Columbia inmates shall be housed in facilities designated by the DOC and approved by the Director.

## 13. TRANSFER OF COOPERATORS BY USMS. Prior to transferring a cooperator, the USMS shall check all separations submitted by the USAO and confirm that the cooperator will not be transferred or housed with any separatees, neither during transit nor at the final designated facility.

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#### 14. WITNESS SECURITY PROGRAM (WITSEC) APPLICATIONS

- a. Upon receipt of a WITSEC application, the VWAU will notify the Bureau of Prisons (BOP), USMS and DOC in writing about the pendency of a WITSEC application as well as final action (approval or disapproval) taken by the Department of Justice Office of Enforcement Operations (OEO) on the application. Such notice will be provided by email or facsimile.
- b. In order to confirm that each agency has received all separation and WITSEC information sent by the VWAU, a designee from DOC, BOP and USMS will send written confirmation of the receipt of separation requests and notifications of the pendency of WITSEC applications to the VWAU via facsimile.
- c. Cooperating defendants shall not be transferred from DOC (or any other correctional facility) while they have pending WITSEC applications. In the event that an inmate with a pending WITSEC application jeopardizes the safety, security or order of the facility, DOC may request that the inmate be removed expeditiously to another facility while his application is pending.

**15. CONFIDENTIALITY OF INFORMATION.** All information regarding separations, cooperator status, and WITSEC status of inmates is to be maintained confidentially on a “need to know basis” by case managers, correctional officers and other staff. Any individual who disseminates this information to other inmates, staff, or the public who do not need to know will be subject to disciplinary action.