



SECRETARY OF THE ARMY  
WASHINGTON

17 JAN 2019

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Army Directive 2019-01 (Policy for Special Communication and Contact Control Measures)

1. References:

- a. Title 5, U.S. Code, section 301 (Departmental regulations).
- b. Title 10, U.S. Code, Chapter 47 (Uniform Code of Military Justice).
- c. Manual for Courts-Martial United States, 2016 Edition (as amended by Executive Order No. 13825 of March 1, 2018).
- d. Department of Defense (DoD) Directive 1325.04 (Confinement of Military Prisoners and Administration of Military Correctional Programs and Facilities), August 17, 2001, Certified Current as of April 23, 2007.
- e. DoD Instruction 1325.07 (Administration of Military Correctional Facilities and Clemency and Parole Authority), March 11, 2013, Incorporating Change 3, April 10, 2018.
- f. Army Regulation (AR) 190-47 (The Army Corrections System), 15 June 2006.

2. Purpose. This directive establishes special communications and contacts control measures (SCCCM). These measures provide specific limitations on the communications and contacts with U.S. Army Corrections Command (ACC) prisoners. The measures are intended to protect national security; public safety; and the good order, discipline, and correctional mission of Army Corrections System (ACS) facilities from acts of violence or terrorism.

3. Applicability. This policy applies to the Regular Army, Army National Guard/Army National Guard of the United States, and U.S. Army Reserve. It also applies to all assigned, attached, or operationally controlled ACC personnel, all ACS prisoners incarcerated in ACS facilities, and ACS prisoners' attorneys of record.

4. Policy

- a. Upon direction from the Assistant Secretary of the Army (Manpower and Reserve Affairs) (ASA (M&RA)), the Commander, ACC may authorize the commander of an ACS facility to implement SCCCМ that are reasonably necessary to protect persons against

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the risk of death or serious bodily injury. These procedures may be implemented when the ASA (M&RA) notifies the Commander, ACC in writing that a prisoner's contacts or communications with persons pose a substantial risk that could result in death or serious bodily injury to persons or in substantial damage to property that would entail the risk of death or serious bodily injury to persons. These SCCCM ordinarily may include housing the prisoner in administrative segregation and/or limiting certain conditions of confinement, including, but not limited to, correspondence, visits, interviews with representatives of the news media, and use of the telephone, as is reasonably necessary to protect persons against the risk of death or serious bodily injury. The authority of the Commander, ACC under this paragraph may not be delegated.

b. As soon as practicable, designated ACS facility staff will notify the affected prisoner in writing of the restrictions imposed and the basis for the restrictions. The notice's statement of the basis may be limited in the interest of prison security or safety to protect against acts of violence or terrorism that could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of death or serious bodily injury to persons. The prisoner will sign for and receive a copy of the notification. The prisoner's attorney(s) of record will also acknowledge in writing receipt of the notice and agreement to abide by the SCCCM.

c. Initial placement of a prisoner in administrative segregation and/or the imposition of any limitation of the prisoner's conditions of confinement in accordance with paragraph 4a may be imposed for up to 120 days or, with the approval of the ASA (M&RA), for a period not to exceed 1 year. The Commander, ACC may thereafter extend the special restrictions imposed in accordance with paragraph 4a in increments not to exceed 1 year if the Commander, ACC receives additional written notification from the ASA (M&RA) that a substantial risk remains that the prisoner's communications or contacts with other persons could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of death or serious bodily injury to persons. The authority of the Commander, ACC under this paragraph may not be delegated.

d. Based on information from the Provost Marshal General that reasonable suspicion exists to believe that a particular prisoner may use communications with attorneys or their agents to solicit, further, or otherwise facilitate acts of terrorism, I may direct the Commander, ACC to impose additional SCCCM. In addition to the SCCCM imposed under paragraph 4a, the Commander, ACC will implement appropriate procedures for the monitoring and/or review of communications between that prisoner and attorneys or attorneys' agents who are traditionally covered by the attorney-client privilege for the purpose of deterring future acts of terrorism.

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(1) My directive under paragraph 4d will be in addition to any findings or determinations relating to the need for the imposition of other SCCCM as provided in paragraph 4a, but may be incorporated into the ASA (M&RA)'s written notification to the Commander, ACC.

(2) Except in the case of prior court authorization, the Commander, ACC will provide written notice to the prisoner and the attorneys involved before the initiation of any monitoring or review. The notice will explain that:

(a) notwithstanding the provisions of DoD Instruction 1325.07, AR 190-47, or other rules, all communications between the prisoner and attorney(s) or attorney's agents may be monitored to the extent determined to be necessary for the purpose of deterring future acts of terrorism; and

(b) communications between the prisoner and attorney(s) or agents are not protected by the attorney-client privilege if reasonable suspicion exists to believe they may facilitate criminal acts or a conspiracy to commit criminal acts, or if those communications are not related to the seeking or providing of legal advice.


(3) The Commander, ACC, with the concurrence of The Judge Advocate General and the Army General Counsel, will employ appropriate procedures to ensure that all attorney-client communications are reviewed for privilege claims and that any properly privileged materials (including, but not limited to, recordings of privileged communications) are not retained during the course of the review or monitoring. To protect the attorney-client privilege and ensure that the investigation or judicial proceeding is not compromised by exposure to privileged material relating to the investigation, judicial proceeding, or defense strategy, The Judge Advocate General will designate a privilege team consisting of individuals not involved in the underlying investigation or judicial proceeding. The monitoring will be conducted pursuant to procedures designed to minimize the intrusion into privileged material or conversations. Except when the person in charge of the privilege team determines the acts of terrorism are imminent, the privilege team will not disclose any information unless and until such disclosure has been approved by a Federal or military judge presiding over the legal matter for which attorneys or their agents represent the particular prisoner.

e. The affected prisoner may seek review of any specific limitation on communications or contacts imposed pursuant to this directive in accordance with paragraph 10-14 of reference 1f. The Commander, ACC will act on any request for review.

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5. Proponent. The Provost Marshal General is the proponent for this policy. The Provost Marshal General is responsible for providing implementing guidance and will incorporate the provisions of this directive into AR 190-47 within 2 years of the date of this directive.

6. Rescission. This directive is rescinded upon publication of the revised regulation.



Mark. T. Esper

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