

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CRAIG WILSON, et al.	)	CASE NO.: 4:20CV794
	)	
	)	
Petitioners,	)	JUDGE JAMES S. GWIN
	)	
v.	)	
	)	
MARK WILLIAMS, Warden of Elkton Federal Correctional Institution, et al.,	)	<u>RESPONDENTS' EMERGENCY</u>
	)	<u>MOTION TO STAY</u>
Respondents.	)	
	)	

Now come Respondents Mark Williams, Warden of Elkton Federal Correctional Institution and Michael Carvajal, Director of Federal Bureau of Prisons (“Respondents”), and hereby respectfully move this Court for an emergency stay of its order issued on May 19, 2020 (ECF No. 85 PageID # 1123) and further renews its Motion to Stay the Court’s April 22, 2020 Order (ECF No. 22 PageID # 352). The grounds for this Motion are more fully set forth in the Memorandum in Support filed contemporaneously herewith.

(Signatures on the following page.)

Respectfully submitted,

JUSTIN E. HERDMAN
United States Attorney

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MARK WILLIAMS, Warden of Elkton	)	
Federal Correctional Institution, et al.,	)	<u>MEMORANDUM IN SUPPORT OF</u>
	)	<u>RESPONDENTS' EMERGENCY</u>
Respondents.	)	<u>MOTION TO STAY</u>
	)	

INTRODUCTION

Pursuant to Fed. R. Civ. P. 62(d), Respondents Mark Williams, Warden of Elkton Federal Correctional Institution and Michael Carvajal, Director of Federal Bureau of Prisons, in their official capacities (“Respondents”), respectfully request that this Court stay its Order issued on May 19, 2020 [ECF No. 85], pending final resolution of the appeal filed by Respondents on May 27, 2020. (Notice of Appeal, ECF No. 95 PageID # 1160.) Respondents also respectfully renew their request for a stay of this Court’s Order of April 22. Although the Federal Bureau of Prisons (“BOP”) has satisfied several requirements of those orders, it remains under an obligation to 1) release numerous inmates to home confinement under criteria of the Court’s creation, which deviate from BOP’s expert public-safety judgments about recidivism risks; and 2) transfer hundreds of inmates to other institutions, notwithstanding BOP’s careful, expertise-based determination, made unreviewable by statute, placing them at Elkton. Respondents respectfully request an expedited ruling on this motion by 3:00 pm on June 1, 2020.

BACKGROUND

The COVID-19 pandemic has created unprecedented public health risks in this country and around the world. Recognizing the threat posed by COVID-19, BOP quickly developed and implemented a nationwide multiphase action plan, which has consistently been informed by “the guidance and direction of worldwide health authorities.” (Decl. of Sarah Dees, ECF No 10-1 PageID #174 at ¶ 6.) Elkton has implemented BOP’s nationwide COVID-19 response and taken numerous precautions according to the facility’s needs. (*Id.* at PageID ## 178-179, ¶ 19.) For example, Elkton inmates and staff have been educated about measures to avoid transmitting COVID-19; all common areas are disinfected at least daily; and inmates have personal access to sinks, water, disinfectant, and soap. (*Id.* at PageID ## 179, 183-84, ¶¶ 20-22, 45-46.) Inmates and staff have been provided protective face masks for daily use and appropriate protective equipment for particular tasks. (*Id.* at PageID #184, ¶¶ 48-50.) BOP has also taken steps to reduce inmate contact—requiring inmates to pick up meals and return to their housing units to eat, and staggering mealtimes. (*Id.* ¶¶ 12, 54, PageID ## 176, 185.)

BOP has dramatically increased its testing capacity in recent weeks and expects to have collected samples from all Elkton inmates by May 29 for testing. (Declaration of Andrea Burnside (“Burnside Decl.”), attached hereto as Ex. A, at ¶ 14.) Any inmate who has COVID-19 symptoms or tests positive is moved to an isolation area. (*Id.* at ¶¶ 5-6.) Asymptomatic inmates who have been in contact with symptomatic inmates are quarantined for at least 14 days. (*Id.* at ¶ 7.) After 14 days, inmates may be released from quarantine if no one in the cohort has reported symptoms or tested positive for COVID-19. (*Id.*) But if a quarantined inmate presents with symptoms, he is isolated, and the 14-day clock restarts. (*Id.*) If an inmate’s condition requires hospitalization, he is transported to a local hospital. (*See id.* ¶ 8.)

Although Elkton continues to experience inmate infections, the efforts by staff appear to have significantly mitigated the risks of COVID-19. (*Id.* at ¶ 10.) Since early April 2020, the number of hospitalized inmates has been in decline from its April 8 peak of 46 inmates. (*Id.* at ¶ 9.) From April 12 through May 2 only four inmates were hospitalized for COVID-19 related illness. (*Id.*) In nearly four weeks since May 2, no other Elkton inmate has been hospitalized for COVID-19-related illness. (*Id.*)

Despite BOP's sustained response to the COVID-19 crisis and the progress on the ground at Elkton, this Court has imposed a series of orders upon Respondents. On April 22, 2020, the Court entered a preliminary injunction granting relief to a conditionally certified subclass of older and medically vulnerable inmates on the theory that the conditions at Elkton violated the Eighth Amendment. (Order, ECF No. 22, PageID ##371-72.) Rejecting the government's arguments that this suit could not proceed under section 2241 and was barred by the Prison Litigation Reform Act (PLRA), and invoking the court's purported "inherent authority" over inmates' confinement, the Court ordered Respondents to "determine the appropriate means of transferring" all subclass members "out of Elkton." (*Id.* at PageID ## 360-361.)

Respondents filed a notice of appeal to the Sixth Circuit Court of Appeals on April 27, 2020. (Not. of Appeal, ECF No. 26 PageID # 394.) Respondents then requested a stay pending appeal. (Em. Mot. for Stay Pending Appeal, ECF No. 29 PageID # 397.) On May 8, 2020, the Court denied Respondents' stay motion. (Order, ECF No. 57 PageID ##744-48.) By that time, BOP had satisfied the injunction's first two requirements. (Status Report, ECF No. 49 PageID ## 678-682.) Petitioners nonetheless filed an emergency motion to enforce the injunction. (Mot. to Enforce, ECF No. 51 PageID ## 693-701.) In response, BOP explained that it had evaluated all inmates in the subclass for the Court's specified forms of relief, and BOP explained why

inmates had been deemed ineligible—including because many are sex offenders. (Opp’n to Mot. to Enforce, ECF No. 58 PageID ## 754-758.) BOP further explained that it had begun evaluating inmates who were ineligible for other forms of relief for transfer to other BOP facilities, and it documented numerous impediments to transferring inmates. (*Id.* at PageID ## 758-762.)

On May 19, the Court granted Petitioners’ motion to enforce the injunction. (Order, ECF No. 85 PageID ## 1124, 1126.) The Court ordered BOP “to make full use of the home confinement authority” and revised the Attorney General’s criteria for home confinement. (*Id.* at PageID ## 1128-1129.) The Court announced, for example, that BOP must “disregard” consideration of a violent offense if it occurred “more than 5 years ago”; and BOP must disregard certain categories of prison disciplinary violations if they constitute the only basis for denial. (*Id.* at PageID # 1129.)

The Court ordered BOP to reevaluate every subclass member under the Court’s criteria and provide “detailed description[s]” regarding one-third of the subclass every 48 hours, [Order, ECF No 85 PageID # 1129-1130], a requirement BOP has now satisfied, (Burnside Decl. at ¶ 29.) The Court also ordered BOP, within 48 hours, to “clarify” the reasons for any denial of compassionate release, [Order, ECF No. 85 PageID # 1131], a requirement that BOP has likewise satisfied, (Resps.’ First Response, ECF No. 89 PageID # 1142.) And the Court ordered BOP to adjudicate any new applications in just seven days. (Order, ECF No. 85 PageID # 1131.) The order also gave BOP just seven days to “show cause” why any inmate ineligible for home confinement or compassionate release “cannot be transferred to another BOP facility where social distancing is possible.” (*Id.* at PageID # 1132.)

On May 20, 2020, Respondents filed an application with the Supreme Court to stay the April 22 order pending completion of proceedings in the Sixth Circuit Court of Appeals and, if

necessary, the Supreme Court. (Not. of Filing Resps.’ Application for Stay, ECF No. 87 PageID # 1136.) The Supreme Court denied the application without prejudice on May 26, 2020. The Supreme Court noted that, although Respondents had sought a stay only of the April 22 order, this Court’s May 19 order “enforc[ed] the preliminary injunction and impos[ed] additional measures,” and Respondents had not yet asked for review or stay of the May 19 order. “Particularly in light of that procedural posture,” the Supreme Court “decline[d] to stay the District Court’s April 22 preliminary injunction without prejudice to the Government seeking a new stay if circumstances warrant.” *Wilson v. Williams*, No. 19A1041, 2020 WL 2644305 (U.S. May 26, 2020). Justices Thomas, Alito, and Gorsuch would have granted the stay application. *Id.* On May 27, 2020, Respondents appealed to the United States Court of Appeals for the Sixth Circuit from the Order of this Court entered on May 19, 2020. (Notice of Appeal, ECF No. 95 PageID # 1160.)

On May 22, 2020, Elkton staff placed 128 inmates who the Court has deemed to be “medically vulnerable” into quarantine to enable their transfer out of Elkton. (Burnside Decl. at ¶ 19.) Senior BOP officials believe the transfer of inmates out of Elkton is not necessary to protect inmates and may contribute to disease spread to other areas. (Declaration of Andre Matevousian (“Matevousian Decl.”), attached as Exhibit B, at ¶ 14.) Further, BOP officials are also reviewing dozens of inmates who Elkton officials had determined were not suitable for home confinement under criteria established by the Attorney General but now 17 such inmates have been approved for home confinement “[i]n order to comply with” the May 19 order and more may be approved as the review continues. (Declaration of Hugh J. Hurwitz (“Hurwitz Decl.”), attached as Exhibit C, at ¶¶ 27-28.)

ARGUMENT

This Court has discretion to stay execution of its judgment pending resolution of an

appeal. Fed. R. Civ. P. 62(d). *A. Philip Randolph Institute v. Husted*, 907 F.3d 913, 917 (6th Cir. 2018). Courts consider four factors when determining if a stay is warranted: (1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. *Id.*; *Hilton v. Braunskill*, 481 U.S. 870, 867-77 (1987); *Concerned Pastors for Soc. Action v. Khouri*, 844 F.3d 546, 548 (6th Cir. 2016). “These four factors ‘are not prerequisites that must be met, but are interrelated considerations that must be balanced’ together.” *Khouri*, 844 F.3d at 548 (quoting *In re EPA*, 803 F.3d 804, 806 (6th Cir. 2015)). As demonstrated below, Respondents have met their burden of showing that this Court should exercise its discretion to stay its order pending appellate review, *Nken v. Holder*, 556 U.S. 418, 433–34 (2008), because a balancing of the factors supports the issuance of a stay pending appeal. *Mich. Coal. of Radioactive Material Users, Inc. v. Griepentrog*, 945 F.2d 150, 156 (6th Cir. 1991).

I. RESPONDENTS ARE LIKELY TO SUCCEED ON APPEAL

A. The Court exceeded its authority under 28 U.S.C. § 2241 and the PLRA

Petitioners bring this suit as a putative class action under 28 U.S.C. § 2241, challenging the conditions of their confinement at Elkton. They seek relief based on their theory that “incarceration amid the COVID-19 outbreak in Elkton violates their rights to constitutional *conditions of confinement*” in violation of the Eighth Amendment. (Pet., ECF No. 1 PageID ## 31, 35 (emphasis added; capitalization omitted).) As the Supreme Court has explained, claims for injunctive relief “challenging the fact of [an inmate’s] conviction or the duration of his sentence . . . fall within the core of federal habeas corpus,” but “claims that merely challenge the conditions of a prisoner’s confinement . . . fall outside that core.” *Nelson v. Campbell*, 541 U.S.

637, 643 (2004). Accordingly, the Sixth Circuit has recognized that a habeas petition under section 2241 “is not the proper vehicle for a prisoner to challenge conditions of confinement.” *Luedtke v. Berkebile*, 704 F.3d 465, 466 (6th Cir. 2013); *Martin v. Overton*, 391 F.3d 710, 714 (6th Cir. 2004).

This Court acknowledged the Sixth Circuit precedent but held that Petitioners’ suit was better characterized as a challenge to the “execution or manner” of Petitioners’ sentences. (Order, ECF No. 22 PageID # 362.) However, the Court’s orders expressly contemplate that inmates may be transferred to another prison, even though such relief is unavailable in habeas. (*Id.*; *see also*, Order, ECF No. 85 PageID # 1123.) Relief that addresses whether a federal prisoner temporarily serves his sentence in a particular federal prison or elsewhere does not alter the “fact or duration of [his] confinement,” *Preiser v. Rodriguez*, 411 U.S. 475, 489 (1973), or “the execution or manner in which the sentence is served,” *United States v. Peterman*, 249 F.3d 458, 461 (6th Cir. 2001), nor does it change the court-imposed sentence—the hallmark of habeas relief. *See* 18 U.S.C. § 3621(b) (BOP, not the sentencing court, “designate[s] the place of the prisoner’s imprisonment”).

Because Petitioners’ suit is not properly cognizable in habeas, Respondents are likely to succeed on the merits that it is inappropriate to rely on “inherent authority” “to ‘enlarge’ the custody of a defendant pending the outcome of a habeas action.” (Order, ECF No. 22 PageID # 359.) The injunctive relief ordered by this Court also looks nothing like the relief in the only cases that support this novel theory, *see, e.g., Dotson v. Clark*, 900 F.2d 77, 79 (6th Cir. 1990). En masse transfer of hundreds of inmates to other places of confinement is not a preliminary form of the relief that is available in habeas. *Cf. De Beers Consol. Mines v. United States*, 325 U.S. 212, 220 (1945).

Further, Petitioners' requested relief contravenes the strict limits of the Prison Litigation Reform Act. The PLRA creates a carefully reticulated scheme for "the entry and termination of prospective relief in civil actions challenging prison conditions." *Miller v. French*, 530 U.S. 327, 331 (2000). It applies to "any civil proceeding arising under Federal law with respect to the conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison." 18 U.S.C. § 3626(g)(2).

Under the PLRA, BOP's decisions concerning an inmate's "designation of a place of imprisonment . . . [are] not reviewable by any court." 18 U.S.C. § 3621(b). BOP's administrative judgment about where a prisoner should be housed balances multiple factors within BOP's unique expertise, including the prisoner's "history and characteristics," the "nature and circumstances of [his] offense," his "security designation," his "programmatic" and "mental and medical health needs," and the "resources of [each] facility." *Id.* The decision is thus vested in expert prison officials, and "any approach that puts the judicial branch in charge of designating the place of confinement . . . —no matter how well justified on utilitarian grounds—collides with . . . the Attorney General[']s unfettered authority to decide where to house federal prisoners." *In re Gee*, 815 F.2d 41, 42 (7th Cir. 1987). Yet the May 19 order overtly overrules BOP's determination regarding home-confinement placement and orders transfer of inmates to different facilities.

The PLRA also requires that any "prisoner release order" be "entered only by a three-judge court," only after specific requirements are met. 18 U.S.C. § 3626(a)(3)(A), (B). The April 22 and May 19 orders are "prisoner release orders," as they have the "purpose" or "effect" to "reduc[e] or limit[] the prison population." *Id.* § 3626(g)(4); *Brown v. Plata*, 563 U.S. 493, 511 (2011). And even if the orders were not "prisoner release order[s]," they would violate other

PLRA restrictions on “civil action[s] with respect to prison conditions.” 18 U.S.C. § 3626(a).

B. Respondents have not violated the Eighth Amendment

Respondents are likely to succeed on the merits because Petitioners have failed to establish an Eighth Amendment violation. To succeed on their conditions-of-confinement claim, Petitioners must demonstrate that BOP has violated the prohibition against “cruel and unusual punishments,” U.S. Const. Amend. VIII, by meeting “two requirements,” one objective, the other subjective. *Farmer v. Brennan*, 511 U.S. 825, 834, 846 (1994).

On the first, objective requirement, Petitioners must demonstrate that the conditions at Elkton pose “‘sufficiently serious’” health risks that they deny “‘the minimal civilized measure of life’s necessities.’” *Farmer*, 511 U.S. at 834 (citations omitted). Although COVID-19 poses significant health risks, BOP has assiduously mitigated the risk of serious injuries at Elkton with numerous (and increasing) responses. Petitioners fail to show that the risks at Elkton are “so grave that it [would] violate[] contemporary standards of decency to expose anyone unwillingly to [them].” *Helling v. McKinney*, 509 U.S. 25, 36 (1993). The risks posed by COVID-19 confront not only prisoners but citizens nationwide, including others who live or work in confined locations. Data bears out BOP’s extensive efforts to address the risks at Elkton: even before the Court entered its April 22 injunction, the number of hospitalized inmates had already peaked and has subsequently declined significantly. (Burnside Decl. at ¶ 9, Ex. A; *see also*, Dees Decl., ECF No. 58-1 PageID ## 788-790.)

Petitioners have also failed to demonstrate that BOP has acted with “deliberate indifference to inmate health or safety,” “know[ing] of and disregard[ing] an excessive risk to inmate health or safety.” *Farmer*, 511 U.S. at 834, 837. The COVID-19 pandemic has created unprecedented and rapidly evolving risks throughout the world, and the Eighth Amendment’s

deliberate-indifference standard does not license a court to second-guess prison officials' policy judgments in response. *See Thornburgh v. Abbott*, 490 U.S. 401, 407-408 (1989) (courts must provide "considerable deference" to prison administrators given their "expertise," and "the judiciary is 'ill equipped' to deal with the difficult and delicate problems of prison management"). BOP has not been even arguably "deliberately indifferent" to the evolving COVID-19 pandemic. To the contrary, officials have deliberately confronted the risks posed by this public-health crisis. (Dees Decl., ECF No 10-1 PageID ## 174-84 at ¶¶ 6, 12, 19-22, 45-50, 54.)

In its May 19 order, the Court concluded that BOP's efforts were insufficient and criticized the pace of mass testing BOP had begun to undertake. (Order, ECF No. 85 PageID # 1124.) In fact, BOP has made substantial progress fighting the virus. (Burnside Decl. at ¶ 9, Ex. A; *see also*, Dees Decl., ECF No. 58-1 PageID ## 788-89.)

In any event, the record does not support a finding of an Eighth Amendment violation: nothing in the record suggests that BOP officials subjectively doubted that their extensive efforts, which track CDC guidance, were a reasonable and appropriate response to the threat posed by COVID-19; and these extensive efforts take into account the practical constraints facing officials trying to run a prison. Numerous courts of appeals have been staying orders like the orders in this case finding that district courts should not assume the role of prison administrator. *See, e.g., Valentine v. Collier*, 956 F.3d 797, 802 (5th Cir. 2020) (per curiam), *mot. to vacate stay denied*, No. 19A1034, 2020 WL 2497541 (U.S. May 14, 2020); *Swain v. Junior*, 958 F.3d 1081 (11th Cir. 2020); *Marlowe v. LeBlanc*, No. 20-30276, 2020 WL 2043425 (5th Cir. Apr. 27, 2020); *see also Roman v. Wolf*, No. 20-55436, 2020 WL 2188048 (9th Cir. May 5, 2020).

At minimum, transfer to home confinement is an improper remedy for any alleged Eighth

Amendment violation. Because Petitioners challenge the conditions of their confinement, the only potential relief would be improvement in the conditions at Elkton or, if absolutely necessary, transfer to another facility. If those remedies are available—and they are—there is no basis to mandate home confinement.

C. The Court Improperly Conditionally Certified the Subclass

The Respondents are further likely to succeed on the merits because the “conditional class” of more than 800 additional inmates is improper under Federal Rule of Civil Procedure 23(b)(2). The subclass does not satisfy Rule 23’s commonality and typicality requirements—neither the merits nor the requested relief is susceptible to classwide disposition. And although this Court has stated that “the defining characteristic” of mandatory class actions under Rule 23(b)(2) “is the homogeneity of the interests of the members of the class,” *Reeb v. Ohio Dep’t of Rehab. & Corr.*, 435 F.3d 639, 649 (6th Cir. 2006), the interests of the subclass here are anything but homogeneous, as underscored by the individualized evaluation that the preliminary injunction requires, as well as the futile attempt numerous inmates have made to “opt out” of the relief ordered by the Court.

II. THE BALANCE OF EQUITIES WARRANT A STAY

Harms to BOP and to the public interest “merge,” *Nken*, 556 U.S. at 435, and if the orders are not stayed, they will continue to inflict irreparable harm on BOP, other BOP inmates, and the public.

To begin, the April 22 and May 19 orders usurp BOP’s statutory authority to designate appropriate placements for every inmate, *see* 18 U.S.C. § 3621(b). As the Supreme Court has recognized, “irreparable harm” occurs when the government “is enjoined by a court from effectuating statutes enacted by representatives of its people.” *Maryland v. King*, 133 S. Ct. 1, 3

(2012). Here, duly enacted statutes give BOP unreviewable discretion to determine where inmates should be placed, 18 U.S.C. § 3621, and to determine (according to the Attorney General’s guidance) when it is appropriate to place a particular inmate in home confinement.

Section 3621 reflects the self-evident point that expertise to run a prison lies with BOP—not an individual federal judge. The Supreme Court has emphasized: “[i]t is well settled that the decision where to house inmates is at the core of prison administrators’ expertise.” *McKune v. Lile*, 536 U.S. 24, 39 (2002). The Supreme Court has instructed courts to provide “considerable deference” to prison administrators in light of that “expertise” and cautioned that “the judiciary is ill equipped to deal with the difficult and delicate problems of prison management.” *Thornburgh*, 490 U.S. at 407-08.

The Court’s May 19 order runs afoul of these principles by requiring that BOP move numerous inmates to home confinement under criteria of the Court’s creation that depart from BOP’s expert-driven, public-safety judgments. The April 22 order likewise mandates that BOP transfer hundreds of inmates to other institutions, notwithstanding BOP’s unreviewable determinations under section 3621 that Elkton is the facility best suited for them. This harm is alone sufficient to justify a stay.

Even if this were not the case, the orders impose several additional irreparable harms on the public, inmates, and BOP. The public may be harmed in at least two ways. First, it may be exposed to additional public safety risks if BOP is forced to place inmates in home confinement that have not been deemed appropriate. Although public safety is a key consideration in BOP’s analysis of home confinement eligibility, *see, e.g.*, Hurwitz Decl. at ¶ 6., the Court’s order requires BOP to “disregard” some of the key factors that might indicate that an inmate poses a threat to public safety, such as the fact that he has a history of violent offenses. (Order, ECF No.

85 PageID # 1129.) Second, BOP has explained that there is a risk that COVID-19 may be transmitted to new areas if inmate transfers occur. (Matevousian Decl. at ¶ 14.)

Inmates, too, may be harmed. Transfers could inadvertently spread COVID-19 to new facilities, despite BOP's best efforts to the contrary. Class members also may be placed in new facilities that do not suit their needs as well as Elkton. To determine the correct placement for a particular inmate, BOP carefully weighs numerous statutory factors, designed to ensure that each inmate is incarcerated in a location that will maximize public safety and inmate wellbeing. *See* 18 U.S.C. § 3621(b). BOP can, for example, ensure that an inmate who needs sex-offense or drug-rehabilitation programs be placed at a facility that has them, a reasonable distance from his home, at an appropriate security level, and with available space. (Declaration of Shannon Robbins ("Robbins Decl.") attached as Exhibit D, at ¶¶ 42-45.) Overriding BOP's careful inmate placement decisions for the subclass thus threatens inmates' well-being. (Matevousian Decl. at ¶¶ 12-13 (citing inmates' security and mental health concerns).) Indeed, when all Elkton inmates were surveyed about their desire to participate in this class-action suit, over 900 inmates responded, and more than 100 inmates specifically indicated that they did *not* wish to be transferred from Elkton; yet they remain covered by the Court's injunctive orders, which provide no formal opt-out mechanism (and which cannot do so due to the injunctive-relief-only mandatory nature of the class). Fed. R. Civ. P. 23(b)(2); *see also* (Respondents' Opposition to Petitioners' Emergency Motion to Circulate Notice, ECF No. 60 PageID # 846-847.)

In addition, BOP has been diverted from full implementation of its strategic plan and forced to devote tremendous resources to comply with the Court's numerous orders requiring status reports on everything from the daily number of tests to the precise nature of inmate separation within the facility. And these orders are in addition to the Court's mandate to transfer

800 inmates, which is forcing BOP to reallocate resources it would otherwise use to move the thousands of inmates it has a statutory mandate to receive from custody of the U.S. Marshal's Service to allow inmates to begin serving their sentences. 18 U.S.C. § 4042; (Robbins Decl. at ¶ 38.)

These harms are irreparable if the Court's orders are not stayed. Some inmates will have been inappropriately placed in the community through home confinement; inmates will have been moved from their statutorily designated locations, perhaps to higher security institutions; COVID-19 will have potentially spread; inmate treatment programs will have been interrupted; and BOP will have diverted its resources to effectuate judicial orders rather than its strategic response plan for COVID-19.

Moreover, this Court's Orders ignore the improving condition at Elkton. (Order, ECF No. 22 PageID # 368.) But, even when the Court issued the April 22 order, inmate hospitalizations for COVID-19 had sharply decreased. (Opp'n to Mot. to Enforce, ECF No. 58 PageID #752.) From April 12 to May 2, only four inmates were hospitalized for COVID-19-related illnesses, and since May 2, no other Elkton inmate has been hospitalized for COVID-19-related illnesses. (Burnside Decl. at ¶ 9.) Moreover, although nine inmates have died from COVID-19, each death resulted from an infection that occurred before April 6. (*Id.* at ¶ 8.) There have been *no* deaths based on infections occurring since the district court entered its April 22 Order. Although mass testing at Elkton has revealed the extent of COVID-19 at the facility, BOP has made significant process containing COVID-19 and mitigating the risks.

CONCLUSION

For the foregoing reasons, Respondents respectfully urge this Court to stay its May 19 and April 22 orders pending appeal.

Respectfully submitted,

JUSTIN E. HERDMAN
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

WILSON, ET AL,

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CASE NO. 4:20-CV-00794

JUDGE GWIN

DECLARATION OF ANDREA BURNSIDE

I, Andrea Burnside, do hereby declare, certify and state as follows:

1. I am employed by the United States Department of Justice, Federal Bureau of Prisons (BOP). I currently work as the Executive Assistant /Acting Associate Warden at Federal Correctional Institution (FCI) Elkton in Lisbon, Ohio. I have held the position of Executive Assistant since November 11, 2019. I have been an Acting Associate Warden since March 2020. I have been employed by BOP since September 18, 2005. Throughout this declaration, when I refer to "FCI Elkton" generally, I am referring to both of the FCI Elkton institutions, the Federal Correctional Institution (FCI) and the Federal Satellite Low (FSL), unless otherwise specified.

2. In my position as an Acting Associate Warden at FCI Elkton, I am responsible for exercising control and supervision of various aspects of the institution's functions such as operations, medical, mental health, custody, transportation, and industries. As Executive Assistant, and under the general direction of the Warden, I work with the Associate Warden(s) and department heads in developing plans, policies and programs for institution management. I help monitor and evaluate institution programs in terms of achievement of overall objectives. I

serve as the Warden's representative during investigations of specific inmate management problems. I serve as a liaison between executive staff and department heads insuring a meaningful and consistent flow of communications

3. I have been asked to discuss FCI Elkton's ongoing efforts to combat the Coronavirus Disease 2019 (COVID-19) pandemic, the current state of inmate testing and health, BOP's efforts to implement the District Court's requirement to transfer inmates out of FCI Elkton, and other issues related to those topics.

COVID-19 Response at FCI Elkton

4. As explained in previous declarations filed in this case, BOP and FCI Elkton have developed and implemented a multi-phase plan to address and mitigate the risks posed by COVID-19. Notwithstanding extensive mitigation efforts at FCI Elkton, by late March 2020, inmates at Elkton had begun to contract COVID-19. On March 26, 2020, FCI Elkton sent its first inmate to a local hospital for treatment because of COVID-19.

5. Two of the methods that FCI Elkton utilizes to combat the virus's spread are the isolation and quarantine of inmates who may have contracted COVID-19. Isolation is used to separate from others those inmates who either have symptoms consistent with COVID-19 or have tested positive for COVID-19. FCI Elkton has currently designated the FCI Visiting Room, FCI Chapel, and FCI Gym and FSL G-A Housing Unit as isolation areas. As results from mass testing are returned, housing units at the FCI will be used as isolation areas, as needed.

6. Clearance from isolation is based on the CDC's recommendations. Currently, under CDC guidelines, an inmate may be released from isolation after 14 days if he is fever-free for 72 hours prior to his release, and exhibits no other symptoms. The BOP has supplemented that isolation period with an additional period of "post-isolation recovery." There is no clear

guidance about the length of time that the virus remains in the body. BOP has recommended that inmates complete additional time in post-isolation recovery up to 21 days in the hope that the inmate will develop antibodies during that period. Consistent with that recommendation, an inmate who is released from isolation at FCI Elkton is moved to post-isolation recovery in a separately designated area until his total time equals 21 days.

7. "Quarantine" in the context of COVID-19 refers to separating asymptomatic persons who may have been exposed to the virus to (1) observe them for symptoms and signs of the illness during the incubation period and (2) keep them apart from other incarcerated individuals. Inmates are quarantined together for a 14-day period currently in either FCI Elkton's UNICOR area, Special Housing Unit, the FSL visiting room, FSL Psychology Services office, and in clean housing units once mass testing is/was completed. Consistent with CDC guidelines, if no inmate within a quarantined inmate group exhibits symptoms consistent with COVID-19 during the 14-day quarantine period, the group may be released from quarantine. But if an inmate in the group exhibits such symptoms, that inmate is isolated and the 14-day quarantine clock resets for the balance of the group.

8. In late March and early April 2020, a significant number of inmates at FCI Elkton contracted COVID-19 and required hospitalization. The number of inmates admitted to the local hospital due to COVID-19 increased from one on March 26 to a peak of 46 on April 8. Several hospitalized inmates required intubation for ventilation. And regrettably, notwithstanding BOP's efforts, a total of nine Elkton inmates, each of whom was hospitalized after reporting sick between March 26 and April 7, subsequently died in the hospital due to complications from COVID-19. Contemporaneous BOP press releases, as reflected in the footnotes to the following table, publicly announced the circumstances surrounding each inmate's death.

	Inmate	Reported Sick	Admitted to Hospital	Intubated / Ventilated	Died
1	Frank McCoy ¹	Mar. 26, 2020	Mar. 26, 2020	Mar. 27, 2020	Apr. 2, 2020
2	Margarito Garcia-Fragoso ²	Mar. 27, 2020	Mar. 27, 2020	Mar. 28, 2020	Apr. 2, 2020
3	Woodrow Taylor ³	Mar. 28, 2020	Mar. 31, 2020	Apr. 1, 2020	Apr. 2, 2020
4	Alvin Turner ⁴	Apr. 1, 2020	Apr. 3, 2020	Apr. 6, 2020	Apr. 13, 2020
5	David Ehle ⁵	Apr. 2, 2020	Apr. 3, 2020	Apr. 3, 2020	Apr. 14, 2020
6	William Hutsell ⁶	Apr. 3, 2020	Apr. 7, 2020	Refused ⁷	Apr. 16, 2020
7	Richard Nesby ⁸	Apr. 4, 2020	Apr. 4, 2020	Apr. 10, 2020	Apr. 26, 2020
8	James Druggan ⁹	Apr. 5, 2020	Apr. 5, 2020	Apr. 6, 2020	May 6, 2020
9	Michael Brookwalter ¹⁰	Apr. 6, 2020	Apr. 6, 2020	Apr. 8, 2020	May 8, 2020

9. Staff at FCI Elkton continued to take numerous actions to mitigate the spread and effect of COVID-19 in the face of those hospitalizations. As noted in prior declarations in this case, numerous steps have been taken to prevent the spread of the virus and increase social distancing throughout FCI Elkton. These include, but are not limited to, wearing of masks and personal protective equipment (where appropriate), frequent washing of surfaces, cohorting of inmate groups, and limited movement outside of housing units, in addition to frequent notifications to the inmate population via TRULINCS¹¹ on COVID-19 updates to include, proper

¹ https://www.bop.gov/resources/news/pdfs/20200404_press_release_elk.pdf

² https://www.bop.gov/resources/news/pdfs/20200403_press_release_elk.pdf

³ https://www.bop.gov/resources/news/pdfs/20200402_press_release_elk.pdf

⁴ https://www.bop.gov/resources/news/pdfs/20200414_press_release_elkton.pdf

⁵ https://www.bop.gov/resources/news/pdfs/20200414_press_release_elk.pdf

⁶ https://www.bop.gov/resources/news/pdfs/20200416_press_release_elk.pdf

⁷ Inmate Hutsell refused to be intubated at the hospital.

⁸ https://www.bop.gov/resources/news/pdfs/20200426_press_release_elk.pdf

⁹ https://www.bop.gov/resources/news/pdfs/20200509_press_release_elk.pdf

¹⁰ https://www.bop.gov/resources/news/pdfs/20200509_pres_rel_elk.pdf

¹¹ TRULINCS is the Trust Fund Limited Inmate Computer System. TRULINCS is comprised of two main components: an Administrative web-based application used by the local Institution staff, regional Trust Fund offices, and the Trust Fund Central Office Staff; and a client-based inmate application used solely by the inmates.

PPE, prevention, and reporting of illness. Since early April 2020, the number of hospitalized inmates has been in decline from its April 8 peak of 46 inmates. From April 12 through May 2, only four inmates were hospitalized for COVID-19-related illness, and, in the nearly four weeks since May 2, no other Elkton inmate has been hospitalized for COVID-19-related illness. As of May 27, 2020, only eight inmates remain in the hospital with COVID-related illnesses. And as noted in the table above, the last inmate who died from complications from COVID-19 died on May 8, after contracting the virus in early April.

10. Although FCI Elkton continues to experience inmate infections, the mitigation efforts by staff appear to have significantly mitigated the risks of COVID-19, as reflected by decreasing hospitalizations since April 8.

11. The charts attached to this declaration provide graphical illustrations of the number of inmate hospitalizations, total number of inmates in the hospital, inmate deaths, intubations, staff confirmed positive COVID-19 tests, and total inmates in isolation from late March/early April to the present. See Exhibit A.

COVID-19 Testing

12. Although FCI Elkton was initially able to procure only limited COVID-19 testing capabilities, it has since been able to significantly expand that capability, as explained in prior declarations. FCI Elkton is now testing inmates for COVID-19 with both the Abbott Labs rapid test and with test swabs sent to Quest Diagnostics laboratory. Both tests are viral tests that detect whether the-virus is present in the testee as of the time the test sample is collected.

13. Quest examines the test swabs that Elkton submits for viral RNA. As such, the accuracy rate of Quest's analysis is estimated to be 95% or higher. Abbott tests are known to be less reliable because the test looks for any remnants of RNA from the coronavirus, which yields

a higher rate of positive results. Health Services staff have informed me that, based on the information now available, the Abbott test appears to have a false negative rate of 20%. FCI Elkton uses the Abbott test, in addition to other diagnostic techniques, in those situations where an inmate is symptomatic and/or to screen the inmate is set to release.

14. Staff at FCI Elkton devised a plan for mass testing all inmates in the institution. Initially, all inmates in isolation were tested. Staff then tested all quarantined inmates who were releasing from the institution, all inmates at the FSL, and then all inmates who are essential workers (food service, orderlies, etc.). Staff then proceeded to test all the inmates in each housing unit at the FCI. They started with the FSL both because it is smaller and would provide a snap shot of what is going on in the institution as a whole. Once the FSL was completed, staff began testing essential workers at the FCI and moved through the various housing units. As of May 27, 2020, approximately 1,550 inmates have been tested. All of the inmates on the “medically vulnerable” list have been tested. My understanding is that there are approximately 775 additional inmates from whom staff expect to collect test swabs before Friday, May 29, 2020. At that time, all inmates at FCI Elkton will have been tested for COVID-19, pending results from Quest.

15. Inmates on the “medically vulnerable” list were also prioritized for testing. Any inmate who tested positive was placed into the isolation unit. Any inmate who tested negative was cohorted with other inmates who tested negative.

16. With the Abbott rapid test available to us, all inmates who complain of symptoms are tested prior to being placed in isolation.

17. As of May 27, 2020, FCI Elkton has tested all inmates who have exhibited symptoms. All such inmates who exhibit symptoms are immediately tested.

18. As of May 27, 2020, a total of 484 FCI Elkton inmates have tested positive for COVID-19. Test results are still pending for a significant number of inmates who have been tested en mass with test swabs sent to Quest for analysis.

Implementation of the District Court's Release Order

19. Based on the District Court's order requiring BOP to transfer out of FCI Elkton inmates who the Court has deemed to be "medically vulnerable," on Friday, May 22, 2020, Elkton staff placed 128 of those inmates into quarantine at the FSL to enable their transfer out of FCI Elkton. Those inmates were selected to be the first group quarantined for such Court-ordered transfer because they have medical conditions that would likely put them at higher risk of serious problems from contracting COVID-19 as defined by the Court and CDC and had previously been tested.

20. Inmates are tested for COVID-19 prior to their placement in quarantine. If an inmate tests negative, he is placed in quarantine for 14 days to facilitate his anticipated release/transfer. The inmate is tested again 24 hours before his release from FCI Elkton. If the inmate tests negative the inmate will continue on with the transfer. If the inmate tests positive, he is placed in isolation and his transfer will necessarily be delayed. In addition, if an inmate tests positive, the 14-day quarantine clock is reset for the remainder of the inmates in his cohort in that quarantine area. FCI Elkton quarantines cohorts of inmates before those inmates are released or transferred.

21. If no positive COVID-19 tests reset the quarantine period for the first batch of inmates quarantined for Court-ordered release or transfer, those inmates will be transferred out of FCI Elkton, as required by the District Court, on June 5, 2020.

22. After the first group of "medically vulnerable" inmates have been transferred out of FCI Elkton, staff at FCI Elkton will process the remaining "medically vulnerable" inmates for

similar transfer as expeditiously as possible. At this rate, and barring something unexpected, we anticipate finishing the transfer of the members of the “medically vulnerable” list out of FCI Elkton by late August 2020.

Home Confinement Efforts

23. Since March 26, 2020, the Attorney General of the United States directed BOP to begin immediately reviewing all inmates who have COVID-19 risk factors, as described by the CDC, to determine which inmates are suitable for home confinement. The eligibility requirements for an inmate to be considered for Home Confinement were set forth by two memoranda. The first memorandum was dated March 26, 2020. See Exhibit B. The Attorney General sent a second memorandum to the Director of the BOP to provide additional guidance on April 3, 2020. See Exhibit C.

24. BOP has been prioritizing the use of its statutory authorities to grant home confinement for inmates seeking transfer in connection with the ongoing COVID-19 pandemic. In accordance with the Attorney General’s Memoranda, the BOP has promulgated guidance for staff to use when determining whether an inmate can be considered for home confinement placement. Factors to be considered include, but are not limited to:

- a. The age and vulnerability of the inmate to COVID-19, in accordance with the CDC guidelines;
- b. The inmate’s conduct in prison, with inmates who have engaged in violent or gang-related activity in prison or who have incurred a BOP violation within the last year not receiving priority treatment;

- c. The inmate's score under PATTERN (the Prisoner Assessment Tool Targeting Estimated Risk and Need),¹² with inmates who have anything above a minimum score not receiving priority treatment;
- d. Whether the inmate has a demonstrated and verifiable re-entry plan that will prevent recidivism and maximize public safety; and
- e. The inmate's crime of conviction, and assessment of the danger posed by the inmate to the community.

25. Some offenses, such as sex offenses, generally rendered an inmate ineligible for home confinement. Other serious offenses weighed heavily against consideration for home confinement.

26. In response to the Court's April 22, 2020, Order, FCI Elkton case management staff, as well as case management staff from the Northeast Regional Office, the Federal Correctional Complex Allenwood in White Deer, Pennsylvania, and the Correctional Programs Division in Washington, DC, among others, conducted a review of the 837 inmates on the "medically vulnerable" list.

27. This review occurred over seven days and consisted of case management staff reviewing each inmate to determine whether that inmate was eligible for consideration of home confinement placement under the Attorney General's memoranda and BOP guidance. As a result of that review, five of the 837 inmates were deemed eligible for consideration of home confinement placement. At the time, eighty-nine (89) inmates on the "medically vulnerable" list had or were awaiting halfway-house dates, were designated for transfer to another BOP location,

¹² For more information on PATTERN, please visit www.bop.gov via Inmates/First Step Act tab.

or had been released from BOP custody as a result of standard processes and procedures separate and distinct from the court order.

28. On May 19, 2020, the Court ordered another review of the “medically vulnerable” list, which now totaled 846 inmates, for consideration of home confinement placement. The Court ordered FCI Elkton to utilize the Court’s criteria in place of some of the Attorney General’s memoranda and BOP guidance when conducting the reviews, and to provide rolling reports on the results of the reviews every 48 hours, with the first report due by the close of business on May 21, 2020. Specifically, the Court ordered FCI Elkton

to (a) eliminate all requirements that the inmate have served some part of his sentence to be eligible for home confinement; (b) disregard any incident reports at the low or moderate severity levels (300 or 400 levels); (c) disregard the violence offense restriction for any inmate whose underlying conviction involved an offense that occurred more than 5 years ago or for which the only basis or denial is a prior violent offense; (d) grant home confinement to inmates who were previously deemed ineligible solely on the basis of a Low PATTERN risk score; and (e) eliminate the requirement that the inmate be a U.S. citizen.

May 19, 2020, Court Order.

29. In accordance with the Court’s Order, FCI Elkton case management staff, as well as case management staff from the Northeast, Mid-Atlantic and Western Regional Offices, the Federal Prison Camp in Duluth, Minnesota, and the Correctional Programs Division in Washington, DC, conducted reviews of 846 inmates who were on the “medically vulnerable” list on the rolling, 48-hour basis under the criteria set by the Court. The results of these reviews were provided to the United States Attorney’s Office for the Northern District of Ohio to produce to the ACLU.

30. Of the 846 inmates reviewed, 80 were referred based on the District Court’s criteria to the Correctional Programs Division for further review for home confinement placement. FCI

Elkton did not deem any of these 80 inmates eligible for consideration of home confinement based on the application of the criteria identified by the Attorney General and BOP.

31. As of today, the Correctional Programs Division has completed its review of twenty-five of those inmates, with eight approved for transfer to another BOP institution and 17 approved for home confinement placement.

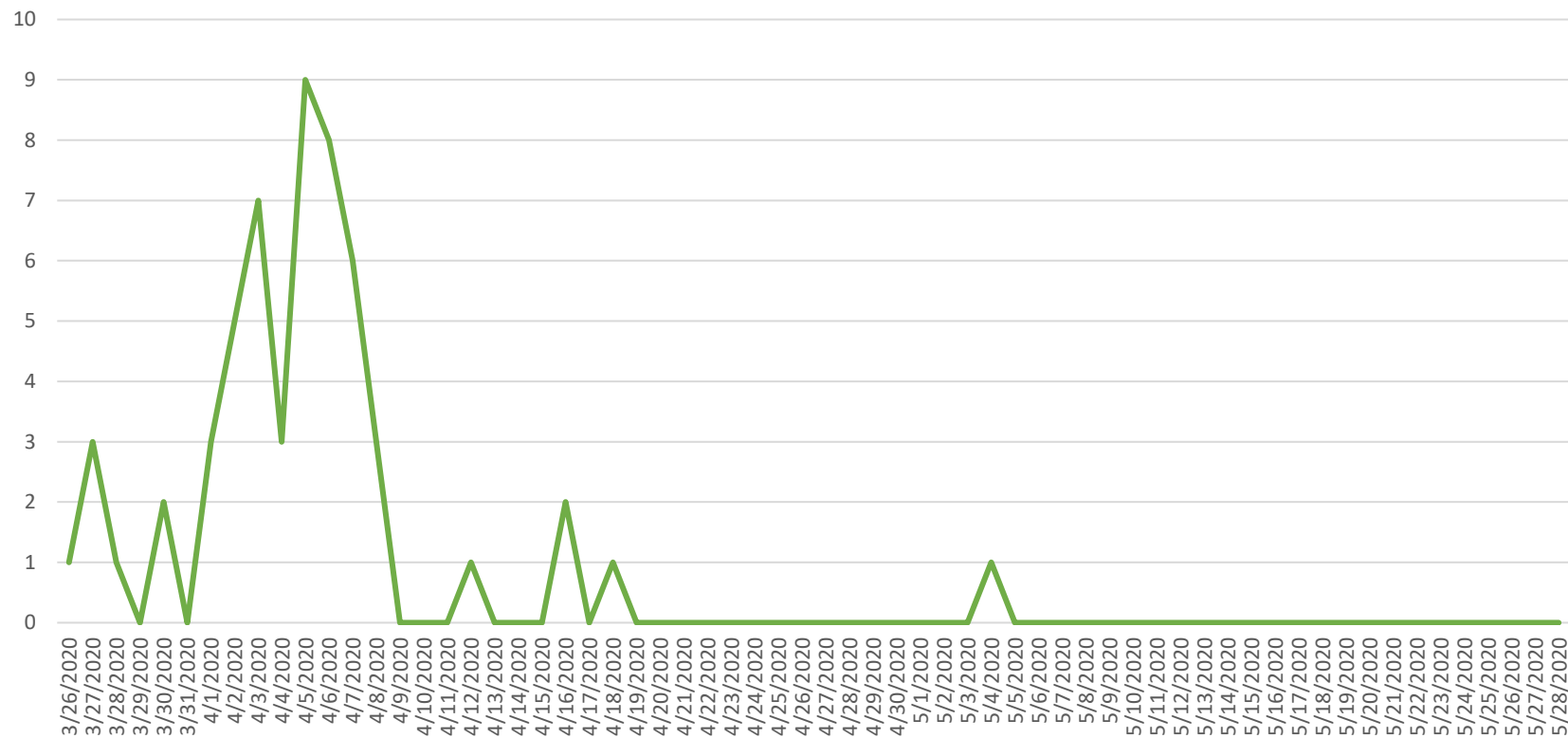
32. A review of the "medically vulnerable" list reveals that only one of the named Petitioners, Kendal Nelson, Federal Register No. 64823-060, is included.

I declare that the foregoing is true and correct to the best of my knowledge and belief, and is given under penalty of perjury pursuant to 28 U.S.C. § 1746 this May 28, 2020.

RESPECTFULLY SUBMITTED,


ANDREA BURNSIDE
Executive Assistant/Acting AW
FCI Elkton

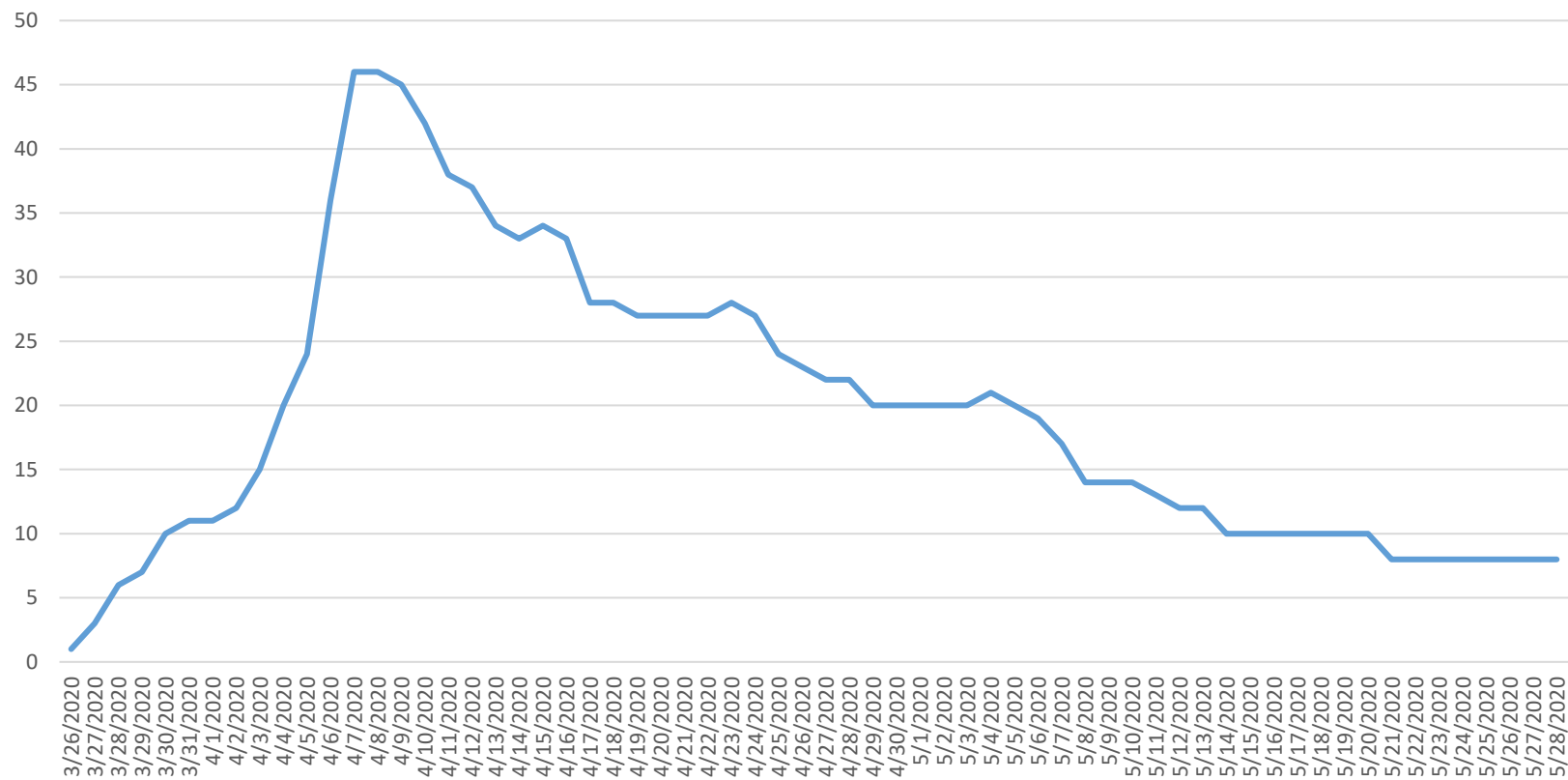
Inmates sent to Local Hospital for COVID-19

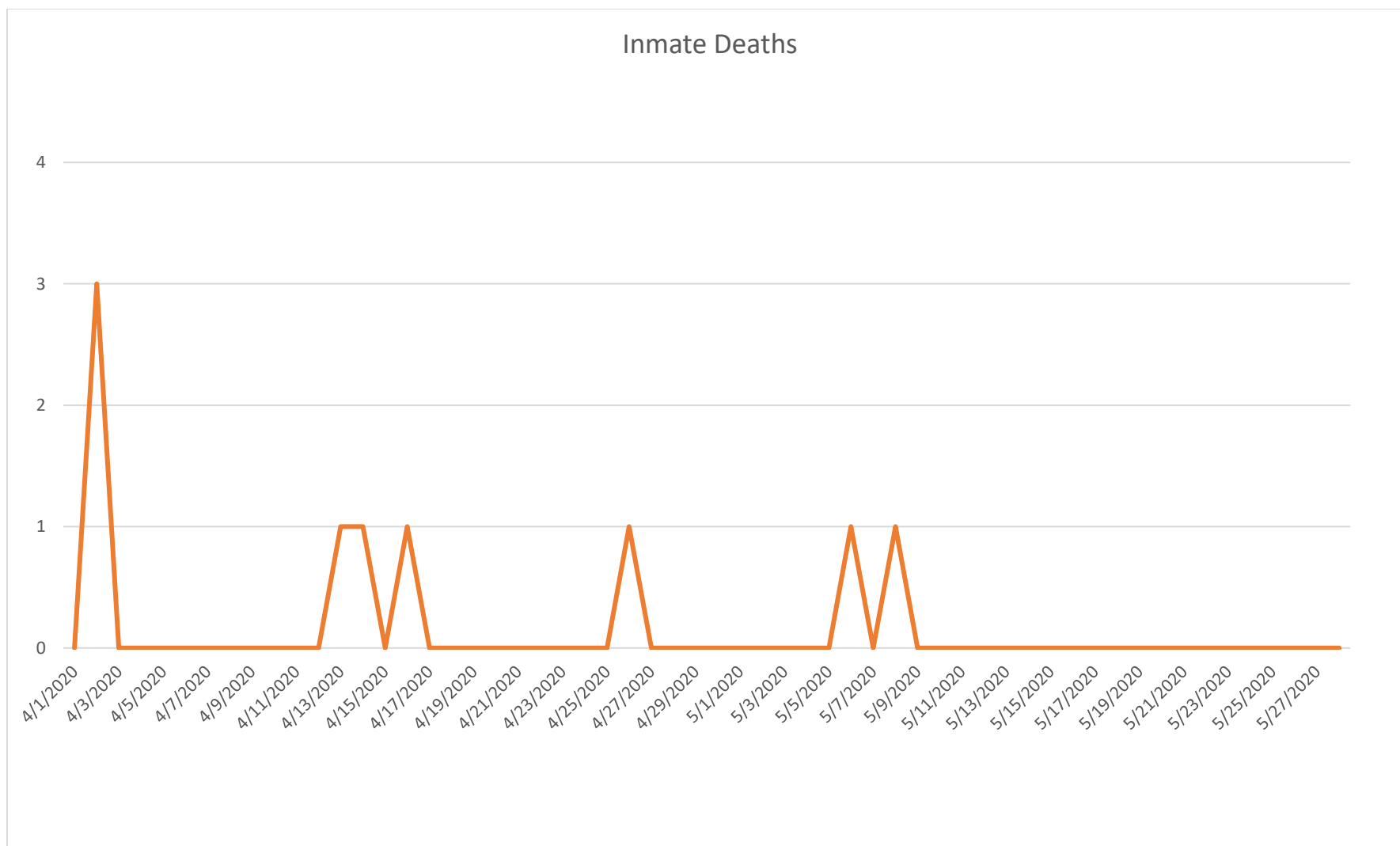


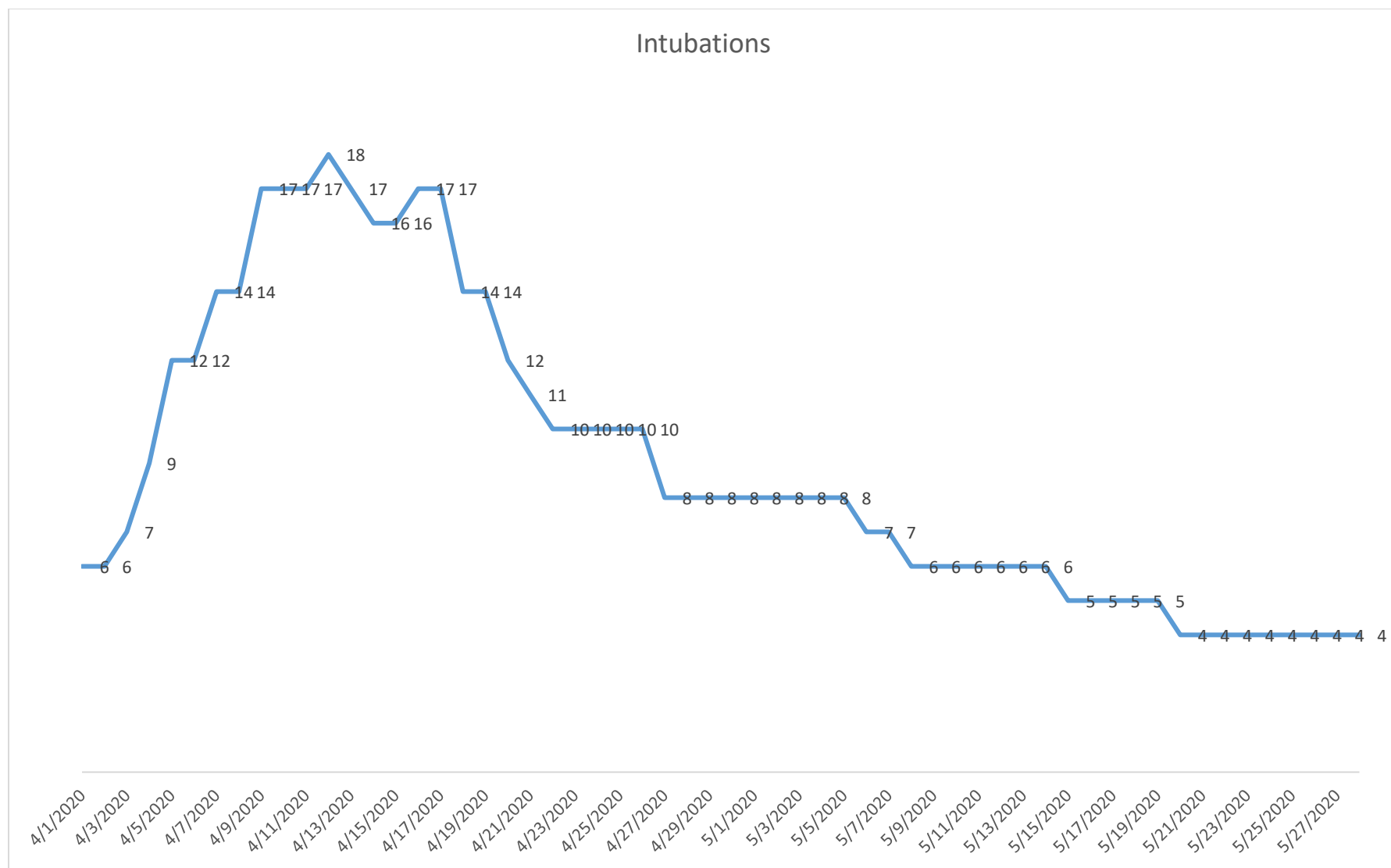
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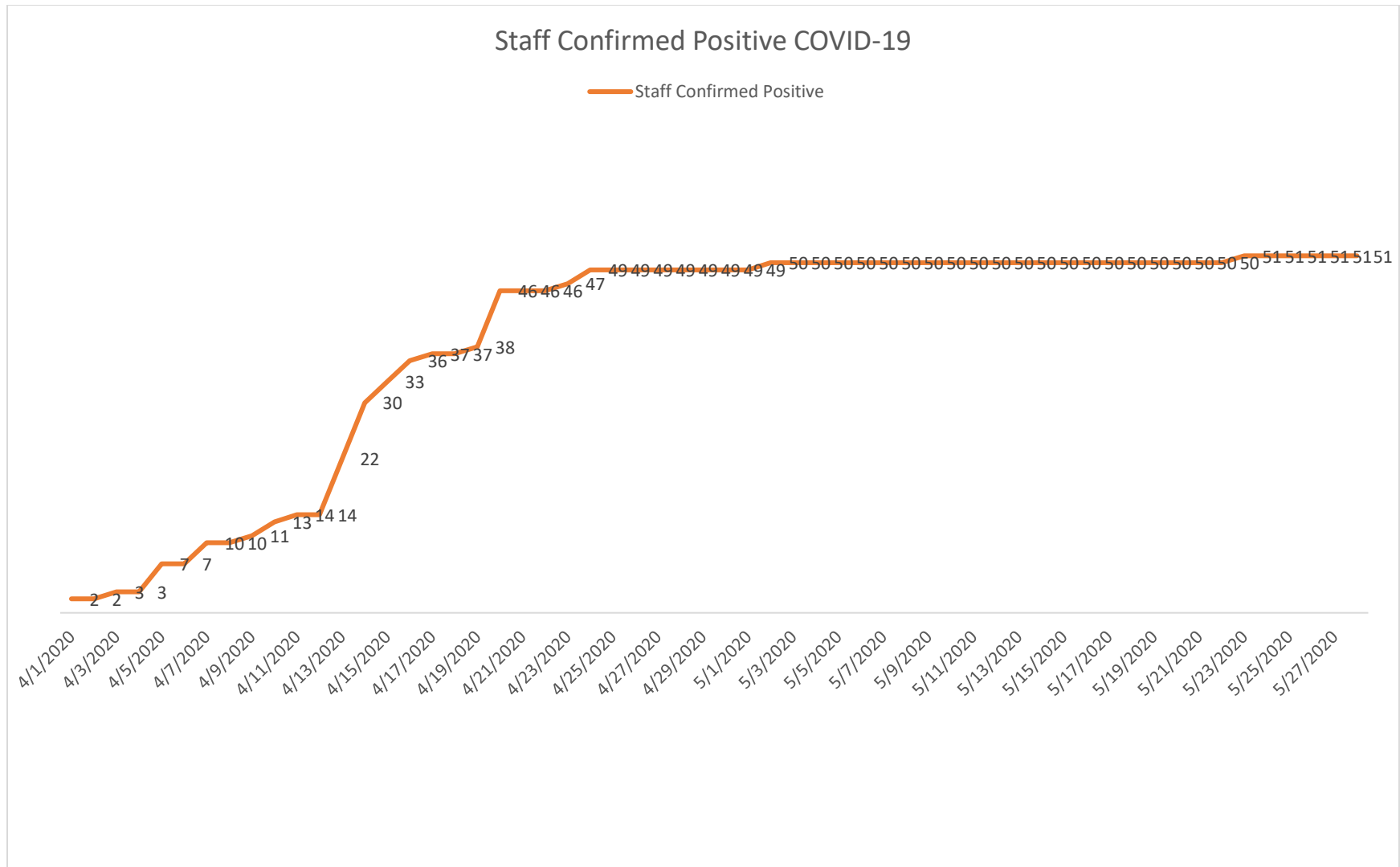
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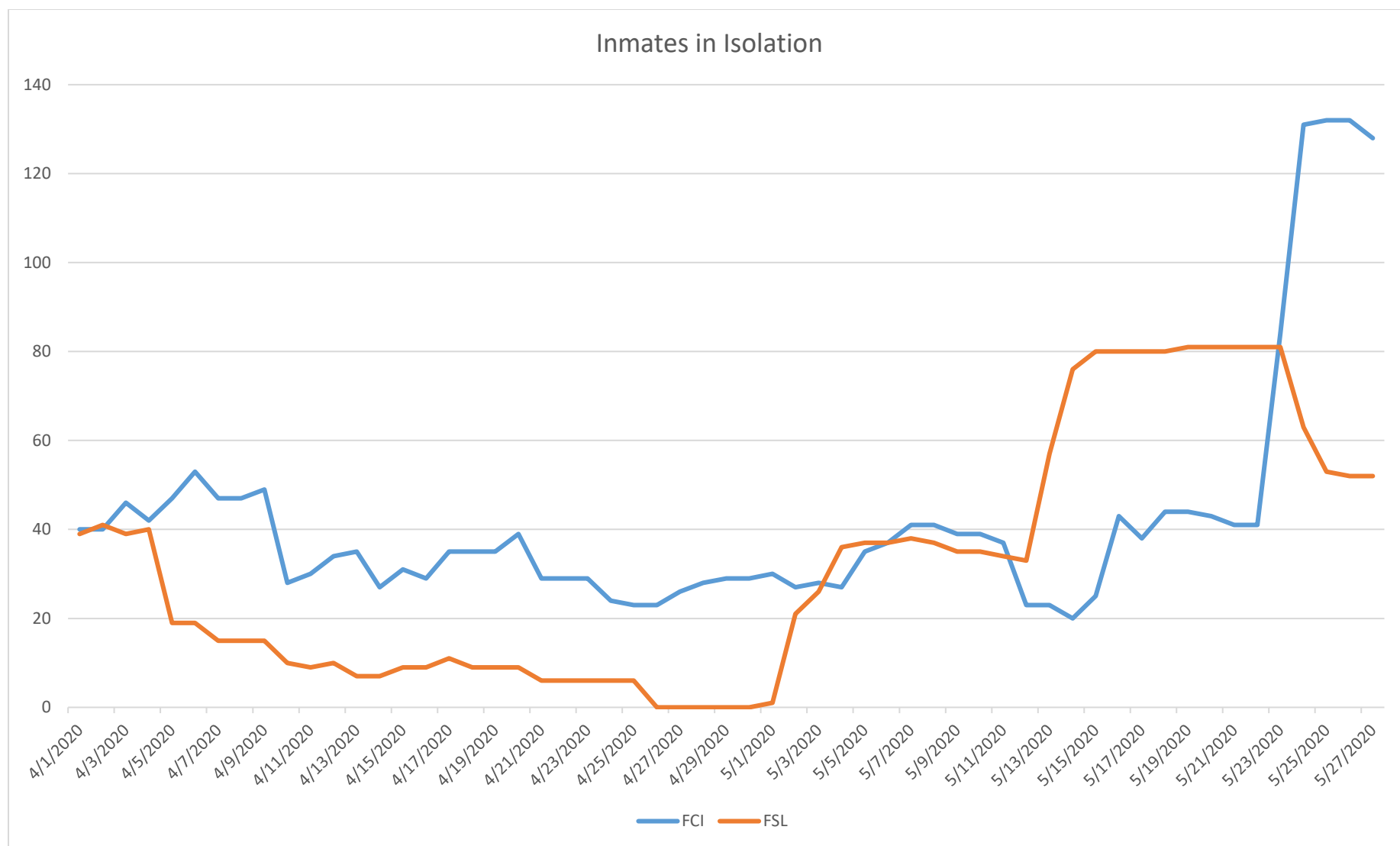
Inmates at Local Hospital











**Increase in number of inmates in isolation due to mass testing results



Office of the Attorney General
Washington, D. C. 20530

March 26, 2020

MEMORANDUM FOR DIRECTOR OF BUREAU PRISONS

FROM: THE ATTORNEY GENERAL 
SUBJECT: Prioritization of Home Confinement As Appropriate in Response to COVID-19 Pandemic

Thank you for your tremendous service to our nation during the present crisis. The current situation is challenging for us all, but I have great confidence in the ability of the Bureau of Prisons (BOP) to perform its critical mission during these difficult times. We have some of the best-run prisons in the world and I am confident in our ability to keep inmates in our prisons as safe as possible from the pandemic currently sweeping across the globe. At the same time, there are some at-risk inmates who are non-violent and pose minimal likelihood of recidivism and who might be safer serving their sentences in home confinement rather than in BOP facilities. I am issuing this Memorandum to ensure that we utilize home confinement, where appropriate, to protect the health and safety of BOP personnel and the people in our custody.

I. TRANSFER OF INMATES TO HOME CONFINEMENT WHERE APPROPRIATE TO DECREASE THE RISKS TO THEIR HEALTH

One of BOP's tools to manage the prison population and keep inmates safe is the ability to grant certain eligible prisoners home confinement in certain circumstances. I am hereby directing you to prioritize the use of your various statutory authorities to grant home confinement for inmates seeking transfer in connection with the ongoing COVID-19 pandemic. Many inmates will be safer in BOP facilities where the population is controlled and there is ready access to doctors and medical care. But for some eligible inmates, home confinement might be more effective in protecting their health.

In assessing which inmates should be granted home confinement pursuant to this Memorandum, you are to consider the totality of circumstances for each individual inmate, the statutory requirements for home confinement, and the following non-exhaustive list of discretionary factors:

- The age and vulnerability of the inmate to COVID-19, in accordance with the Centers for Disease Control and Prevention (CDC) guidelines;

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Memorandum from the Attorney General

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Subject: Prioritization of Home Confinement As Appropriate in Response to COVID-19
Pandemic

- The security level of the facility currently holding the inmate, with priority given to inmates residing in low and minimum security facilities;
- The inmate's conduct in prison, with inmates who have engaged in violent or gang-related activity in prison or who have incurred a BOP violation within the last year not receiving priority treatment under this Memorandum;
- The inmate's score under PATTERN, with inmates who have anything above a minimum score not receiving priority treatment under this Memorandum;
- Whether the inmate has a demonstrated and verifiable re-entry plan that will prevent recidivism and maximize public safety, including verification that the conditions under which the inmate would be confined upon release would present a lower risk of contracting COVID-19 than the inmate would face in his or her BOP facility;
- The inmate's crime of conviction, and assessment of the danger posed by the inmate to the community. Some offenses, such as sex offenses, will render an inmate ineligible for home detention. Other serious offenses should weigh more heavily against consideration for home detention.

In addition to considering these factors, before granting any inmate discretionary release, the BOP Medical Director, or someone he designates, will, based on CDC guidance, make an assessment of the inmate's risk factors for severe COVID-19 illness, risks of COVID-19 at the inmate's prison facility, as well as the risks of COVID-19 at the location in which the inmate seeks home confinement. We should not grant home confinement to inmates when doing so is likely to increase their risk of contracting COVID-19. You should grant home confinement only when BOP has determined—based on the totality of the circumstances for each individual inmate—that transfer to home confinement is likely not to increase the inmate's risk of contracting COVID-19.

II. PROTECTING THE PUBLIC

While we have an obligation to protect BOP personnel and the people in BOP custody, we also have an obligation to protect the public. That means we cannot take any risk of transferring inmates to home confinement that will contribute to the spread of COVID-19, or put the public at risk in other ways. I am therefore directing you to place any inmate to whom you grant home confinement in a mandatory 14-day quarantine period before that inmate is discharged from a BOP facility to home confinement. Inmates transferred to home confinement under this prioritized process should also be subject to location monitoring services and, where a court order is entered, be subject to supervised release.

We must do the best we can to minimize the risk of COVID-19 to those in our custody, while also minimizing the risk to the public. I thank you for your service to the country and assistance in implementing this Memorandum.



Office of the Attorney General
Washington, D. C. 20530

April 3, 2020

MEMORANDUM FOR DIRECTOR OF BUREAU OF PRISONS

FROM: THE ATTORNEY GENERAL *UPBarr*
SUBJECT: Increasing Use of Home Confinement at Institutions Most Affected by COVID-19

The mission of BOP is to administer the lawful punishments that our justice system imposes. Executing that mission imposes on us a profound obligation to protect the health and safety of all inmates.

Last week, I directed the Bureau of Prisons to prioritize the use of home confinement as a tool for combatting the dangers that COVID-19 poses to our vulnerable inmates, while ensuring we successfully discharge our duty to protect the public. I applaud the substantial steps you have already taken on that front with respect to the vulnerable inmates who qualified for home confinement under the pre-CARES Act standards.

As you know, we are experiencing significant levels of infection at several of our facilities, including FCI Oakdale, FCI Danbury, and FCI Elkton. We have to move with dispatch in using home confinement, where appropriate, to move vulnerable inmates out of these institutions. I would like you to give priority to these institutions, and others similarly affected, as you continue to process the remaining inmates who are eligible for home confinement under pre-CARES Act standards. In addition, the CARES Act now authorizes me to expand the cohort of inmates who can be considered for home release upon my finding that emergency conditions are materially affecting the functioning of the Bureau of Prisons. I hereby make that finding and direct that, as detailed below, you give priority in implementing these new standards to the most vulnerable inmates at the most affected facilities, consistent with the guidance below.

- I. IMMEDIATELY MAXIMIZE APPROPRIATE TRANSFERS TO HOME CONFINEMENT OF ALL APPROPRIATE INMATES HELD AT FCI OAKDALE, FCI DANBURY, FCI ELKTON, AND AT OTHER SIMILARLY SITUATED BOP FACILITIES WHERE COVID-19 IS MATERIALLY AFFECTING OPERATIONS

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Memorandum from the Attorney General

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Subject: Increasing Use of Home Confinement at Institutions Most Affected by COVID-19

While BOP has taken extensive precautions to prevent COVID-19 from entering its facilities and infecting our inmates, those precautions, like any precautions, have not been perfectly successful at all institutions. I am therefore directing you to immediately review all inmates who have COVID-19 risk factors, as established by the CDC, starting with the inmates incarcerated at FCI Oakdale, FCI Danbury, FCI Elkton, and similarly situated facilities where you determine that COVID-19 is materially affecting operations. You should begin implementing this directive immediately at the facilities I have specifically identified and any other facilities facing similarly serious problems. And now that I have exercised my authority under the CARES Act, your review should include all at-risk inmates—not only those who were previously eligible for transfer.

For all inmates whom you deem suitable candidates for home confinement, you are directed to immediately process them for transfer and then immediately transfer them following a 14-day quarantine at an appropriate BOP facility, or, in appropriate cases subject to your case-by-case discretion, in the residence to which the inmate is being transferred. It is vital that we not inadvertently contribute to the spread of COVID-19 by transferring inmates from our facilities. Your assessment of these inmates should thus be guided by the factors in my March 26 Memorandum, understanding, though, that inmates with a suitable confinement plan will generally be appropriate candidates for home confinement rather than continued detention at institutions in which COVID-19 is materially affecting their operations.

I also recognize that BOP has limited resources to monitor inmates on home confinement and that the U.S. Probation Office is unable to monitor large numbers of inmates in the community. I therefore authorize BOP to transfer inmates to home confinement even if electronic monitoring is not available, so long as BOP determines in every such instance that doing so is appropriate and consistent with our obligation to protect public safety.

Given the speed with which this disease has spread through the general public, it is clear that time is of the essence. Please implement this Memorandum as quickly as possible and keep me closely apprised of your progress.

II. PROTECTING THE PUBLIC

While we have a solemn obligation to protect the people in BOP custody, we also have an obligation to protect the public. That means we cannot simply release prison populations en masse onto the streets. Doing so would pose profound risks to the public from released prisoners engaging in additional criminal activity, potentially including violence or heinous sex offenses.

That risk is particularly acute as we combat the current pandemic. Police forces are facing the same daunting challenges in protecting the public that we face in protecting our inmates. It is impossible to engage in social distancing, hand washing, and other recommended steps in the middle of arresting a violent criminal. It is thus no surprise that many of our police officers have fallen ill with COVID-19, with some even dying in the line of duty from the disease. This pandemic has dramatically increased the already substantial risks facing the men and women who keep us safe, at the same time that it has winnowed their ranks while officers recover from getting sick, or self-quarantine to avoid possibly spreading the disease.

Memorandum from the Attorney General

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Subject: Increasing Use of Home Confinement at Institutions Most Affected by COVID-19

The last thing our massively over-burdened police forces need right now is the indiscriminate release of thousands of prisoners onto the streets without any verification that those prisoners will follow the laws when they are released, that they have a safe place to go where they will not be mingling with their old criminal associates, and that they will not return to their old ways as soon as they walk through the prison gates. Thus, while I am directing you to maximize the use of home confinement at affected institutions, it is essential that you continue making the careful, individualized determinations BOP makes in the typical case. Each inmate is unique and each requires the same individualized determinations we have always made in this context.

I believe strongly that we should do everything we can to protect the inmates in our care, but that we must do so in a careful and individualized way that remains faithful to our duty to protect the public and the law enforcement officers who protect us all.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

WILSON, ET AL,

Petitioners

v.

WILLIAMS, ET AL,

Respondents

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CASE NO. 4:20-CV-00794

JUDGE GWIN

DECLARATION OF ANDRE MATEVOUSIAN

I, Andre Matevousian, do hereby declare, certify and state as follows:

1. I am a citizen of the United States. I am currently employed by the Federal Bureau of Prisons (BOP) of the United States Department of Justice, as the Acting Assistant Director of the BOP's Correctional Programs Division in Central Office, located in Washington, D.C.
2. The Correctional Programs Division (CPD) develops activities and programs designed to appropriately classify inmates and promote the skills necessary to facilitate the successful reintegration of inmates into their communities upon release. CPD provides national policy direction and daily operational oversight of institution correctional services; intelligence gathering; counter terrorism efforts; management of inmates placed in the Federal Witness Security Program; inmate transportation; inmate sentence computations and designations; emergency preparedness; inmate discipline; and the review of sexually dangerous offenders. CPD staff are also responsible for planning, monitoring, and providing the delivery of programs and services such as case management, correctional systems, the agency's Victim and Witness Notification Program and the collection of court-ordered obligations through the Inmate Financial Responsibility Program. Additionally, the Correctional Programs Division

is the liaison with Immigration Customs Enforcement and the U.S. Marshals Service. As Acting Assistant Director, I provide leadership and management oversight of the Correctional Programs Division.

3. I am aware of the underlying facts in this matter. I have been asked to discuss the Court's directive to transfer subclass members from FCI Elkton to other BOP facilities.

**The BOP's Security Designation, Custody Classification, and
Institutional Designation Authority**

4. The BOP's security designation, custody classification and institutional designation authority and procedures are set forth in BOP Program Statement 5100.08, *Inmate Security Designation and Custody Classification*,¹ and are described in relevant detail in the Declaration of Shannon Robbins, dated May 28, 2020. The statements made herein are largely based on those authorities.

Operational Concerns with Institution to Institution Transfers

5. In compliance with the Court's April 22, 2020 Order in this matter, BOP is assessing institutional resources to determine the availability of space to transfer and house those FCI Elkton inmates who were deemed inappropriate or otherwise ineligible for release consideration.
6. This review must take into considerations the capabilities of other BOP institutions in affording these inmates appropriate COVID-19 measures, such as testing, single-cell placement, and social distancing opportunities, as well as the BOP's suspension of inmate internal movement, programming and security concerns.

¹ This program statement can be viewed in its entirety on the BOP's public website www.bop.gov via the Resources/BOP Policy tab.

7. FCI Elkton is a low security institution with an adjacent Federal Satellite Low located in Columbiana County in Northeastern Ohio. As these inmates potentially subject to transfer under the Court's Order would be transferred from a low security institution, BOP has had to account for each potential transferee institution's physical structure, layout, custody, and security level.
8. As stated above, low security institutions predominantly consist of dormitory or cubicle housing. As such, the Court's Order to place these inmates in single-cells will likely require transferring these inmates to higher security institutions that contain cell-type housing, where – while social distancing may be more easily achieved – they will intermingle with higher security inmates and will be housed in conditions more restrictive than required by their respective security level.
9. Another transfer consideration is the First Step Act of 2018 (FSA). Section 601 of the FSA requires the BOP to place inmate in facilities as close as practicable to their primary residence, and to the extent practicable, in a facility within 500 driving miles of that residence. Specifically, the FSA amended 18 U.S.C. § 3621(b) to state:

The Bureau of Prisons shall designate the place of the prisoner's imprisonment, and shall, subject to bed availability, the prisoner's security designation, the prisoner's programmatic needs, the prisoner's mental and medical health needs, any request made by the prisoner related to faith-based needs, recommendations of the sentencing court, and other security concerns of the Bureau of Prisons, place the prisoner in a facility as close as practicable to the prisoner's primary residence, and to the extent practicable, in a facility within 500 driving miles of that residence. The Bureau shall, subject to consideration of the factors described in the preceding sentence and the prisoner's preference for staying at his or her current facility or being transferred, transfer prisoners to facilities that are closer to the prisoner's primary residence even if the prisoner is already in a facility within 500 driving miles of that residence."

10. Given the limited availability of single-cell bed space, the majority of the inmates potentially subject to transfer under the Court's Order would likely have to be transferred to institutions

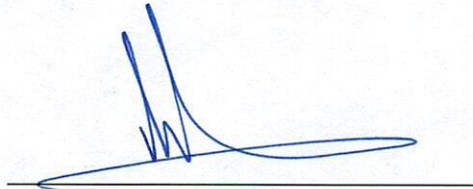
outside of 500 driving miles of their primary residences, which may pose additional burdens upon family visitation.

11. The transfer and transport of approximately 750 inmates, during the COVID-19 pandemic, presents challenges to BOP operational resources, including transportation (e.g. bus and airlift operations) and institutional bed space availability as discussed at length in the Declaration of Shannon Robbins, dated May 28, 2020.
12. There are additional security concerns with housing low security inmates with higher security inmates, which may be the result of many of these transfers. In accordance with Program Statement 5100.08, *Inmate Security Designation and Custody Classification*, BOP takes steps to ensure that inmates are housed with other inmates commensurate with their respective security level. In my correctional experience and observation, generally, high security inmates have more frequent instances of assaults on other inmates and staff. Accordingly, the practice of housing similarly designated inmates together exists to mitigate risks of inmate-on-inmate assault.
13. Additionally, the demographics of inmates at FCI Elkton have a higher percentage of Sex Offenders, based upon the institution's available treatment programming. In my correctional experience and observation, high security inmates are less accepting of inmates with a Sex Offender designation. Accordingly, undoubtedly, the FCI Elkton inmates will request protective custody status and additional segregation status. Prolonged periods of segregation, or restrictive housing, is known to negatively impact mental health. Therefore, BOP may face an increase in the already high percentage of mental health issues in BOP's sex offender population.

14. As I understand the state of the pandemic, no COVID-19 test has proven fully accurate, and based upon CDC information, pre-symptomatic and asymptomatic individuals contribute to disease transmission. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html>. Accordingly, even with appropriate testing, there is a risk that institutional transfers may spread the virus. Given that FCI Elkton has experienced a flattening of the epidemic curve, the transfer of this group of inmates is not necessary to properly protect inmates at FCI Elkton and may contribute to disease spread to other areas.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on this 28th day of May, 2020.



Andre Matevousian, Acting Assistant Director
Correctional Programs Division
Federal Bureau of Prisons
Washington, D.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

WILSON, ET AL,

Petitioners

v.

WILLIAMS, ET AL,

Respondents

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CASE NO. 4:20-CV-00794

JUDGE GWIN

DECLARATION OF HUGH J. HURWITZ

I, Hugh J. Hurwitz, do hereby declare, certify and state as follows:

1. I am currently employed by the Federal Bureau of Prisons (BOP) of the United States Department of Justice, as Assistant Director of the Reentry Services Division of the BOP. Throughout this declaration, when I refer to “FCI Elkton” generally, I am referring to both of the FCI Elkton institutions, the Federal Correctional Institution (FCI) and the Federal Satellite Low (FSL).

2. The Reentry Services Division (RSD) provides the primary coordination for the BOP’s reentry efforts to assist inmates in preparation for a successful return to their communities. RSD is comprised of the following branches: National Reentry Affairs, Chaplaincy Services, Education Services, Women and Special Populations, Psychology Services, and Residential Reentry Management. The branches within RSD work with other disciplines, agencies, and organizations to develop programs, resources, and activities designed to facilitate the successful reintegration of inmates into their communities upon release. RSD’s mission is to enhance oversight and direction for the critical area of reentry. As Assistant Director of RSD, I

oversee the Division's branches and mission, and I am the primary coordinator for the BOP's reentry efforts.

3. I have been asked to discuss the process by which the BOP assesses inmates for home confinement.

The BOP's Authority to Place Inmates on Home Confinement

4. The BOP's statutory authority to transfer prisoners to home confinement rests in 18 U.S.C. § 3624(c)(2) and 34 U.S.C. § 60541. The BOP's policy and procedures regarding home confinement are outlined in BOP Program Statement 7320.01, Home Confinement and BOP Operations Memorandum, Home Confinement under the First Step Act, both of which are available on www.bop.gov via the Resources tab. Both statutes set forth certain limitations with respect to the BOP's transfer authority. *See* 18 U.S.C. § 3624(c)(2) and 34 U.S.C. § 60541. However, pursuant to the Attorney General's directives in light of the COVID-19 pandemic, dated March 26, 2020, and April 3, 2020, *infra*, and given the surge in positive cases at select sites, the BOP began immediately reviewing all inmates who have COVID-19 risk factors, as described by the Centers for Disease Control and Prevention (CDC), to determine which inmates are suitable for home confinement. Since the release of the Attorney General's original memorandum dated March 26, 2020, the BOP is prioritizing transfers to home confinement of all suitable inmates as an appropriate response to the COVID-19 pandemic.

**The Attorney General's Memorandum for the Director of the Bureau of Prisons,
dated March 26, 2020**

5. On March 26, 2020, the Attorney General issued a Memorandum for the Director of the Bureau of Prisons (the March 26, 2020 Memorandum) to ensure that, in light of the COVID-19 pandemic, BOP utilizes home confinement, where appropriate, to protect the health and safety

of BOP personnel and people in BOP's custody. Pursuant to the March 26, 2020 Memorandum, BOP is prioritizing the use of its statutory authorities to grant home confinement for inmates seeking transfer in connection with the ongoing COVID-19 pandemic. It was noted in the March 26, 2020 Memorandum that many inmates will be safer in BOP facilities where the population is controlled and there is ready access to doctors and medical care. But for some eligible inmates, home confinement might be more effective in protecting their health.

6. In assessing whether home confinement should be granted pursuant to the March 26, 2020 Memorandum, the BOP considers the totality of circumstances for each individual inmate, the statutory requirements for home confinement, and the following non-exhaustive list of discretionary factors:

- a. The age and vulnerability of the inmate to COVID-19, in accordance with the CDC guidelines;
- b. The security level of the facility currently holding the inmate, with priority given to inmates residing in low and minimum security facilities;
- c. The inmate's conduct in prison, with inmates who have engaged in violent or gang-related activity in prison or who have incurred a BOP violation within the last year not receiving priority treatment;
- d. The inmate's score under PATTERN (the Prisoner Assessment Tool Targeting Estimated Risk and Need), with inmates who have anything above a minimum score not receiving priority treatment;
- e. Whether the inmate has a demonstrated and verifiable re-entry plan that will prevent recidivism and maximize public safety, including verification that the conditions under which the inmate would be confined upon release would present

a lower risk of contracting COVID-19 than the inmate would face in his or her BOP facility;

- f. The inmate's crime of conviction, and assessment of the danger posed by the inmate to the community. Some offenses, such as sex offenses, will render an inmate ineligible for home confinement. Other serious offenses weigh heavily against consideration for home confinement.

7. In addition to setting forth these factors, the March 26, 2020 Memorandum stated that before granting any inmate discretionary release, the BOP Medical Director, or someone he designates, will, based on CDC guidance, make an assessment of the inmate's risk factors for severe COVID-19 illness, risks of COVID-19 at the inmate's prison facility, as well as the risk of COVID-19 at the location in which the inmate seeks home confinement. The BOP will not grant home confinement to inmates when doing so is likely to increase their risk of contracting COVID-19. The BOP will grant home confinement only when it has determined -- based on the totality of circumstances for each individual inmate -- that transfer to home confinement is likely not to increase the inmate's risk of contracting COVID-19.

8. Moreover, the March 26, 2020 Memorandum noted that for the protection of the public, any inmate to whom BOP grants home confinement is to be placed in a mandatory 14-day quarantine before that inmate is discharged from a BOP facility to home confinement. Inmates transferred to home confinement under this prioritized process are also subject to location monitoring devices and, where a court order is entered, are subject to supervised release.

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**The CARES Act and the Attorney General's Memorandum
for the Director of the Bureau of Prisons, dated April 3, 2020**

9. The Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law No. 116-236 (enacted March 27, 2020), authorizes the Attorney General to expand the cohort of inmates who can be considered for home confinement upon his finding of emergency conditions which are materially affecting the function of the BOP. On April 3, 2020, the Attorney General made that finding, and in a Memorandum for the Director of the Bureau of Prisons (April 3, 2020 Memorandum), authorized the Director to immediately maximize appropriate transfers to home confinement of all appropriate inmates held at BOP facilities where the Director determines that COVID-19 is materially affecting operations.

10. The April 3, 2020 Memorandum specifically stated that the BOP must move with dispatch in using home confinement, where appropriate, to move vulnerable inmates out of FCI Oakdale, FCI Danbury, and FCI Elkton, and to give priority to those institutions, and others similarly affected, as the BOP continues to process the remaining inmates who are eligible for home confinement under pre-CARES Act standards.

11. The April 3, 2020 Memorandum directed that the BOP give priority in implementing the new standards to the most vulnerable inmates at the most affected facilities and was explicit that the BOP should begin implementing this directive immediately at the identified facilities and any other facilities at risk of similar problems. The April 3, 2020 Memorandum stated that the review should include a much broader pool of at-risk inmates—not only those who were eligible for transfer prior to the Attorney General exercising his authority under the CARES Act. The assessment of all inmates remains guided by the factors in the March 26, 2020 Memorandum.

12. For inmates deemed suitable candidates for home confinement, the April 3, 2020 Memorandum directed the BOP to immediately process these inmates for transfer and then immediately transfer them following a 14-day quarantine at an appropriate BOP facility. The April 3, 2020 Memorandum further authorized BOP to, in appropriate cases, require that the inmate being transferred undergo his or her 14-day quarantine in the residence to which the inmate is being transferred rather than in the BOP facility from which the inmate is being transferred.

13. The April 3, 2020 Memorandum also recognized that the BOP has limited resources to monitor inmates on home confinement and that the U.S. Probation Office is unable to monitor large number of inmates in the community, and authorized the BOP to transfer inmates to home confinement even if electronic monitoring is not available, so long as it determines in every instance that doing so is appropriate and consistent with the obligation to protect public safety.

14. Lastly, the April 3, 2020 Memorandum stated that it is essential for the BOP to continue making determinations for home confinement in a careful and individualized way that remains faithful to the duty of protecting the public and law enforcement officers.

**The BOP's Implementation of the March 26, 2020 and
the April 3, 2020 Memoranda**

15. The BOP is devoting all available resources to executing the Attorney General's directives, with such resources tailored and prioritized according to the needs of individual institutions across the country. The BOP is assessing the inmate population to determine which inmates would be appropriate for transfer under this priority program. The BOP is then processing those inmates for transfer as expeditiously as possible.

16. The BOP is also frequently updating its public website to provide information and responses to frequently asked questions regarding its response to the COVID-19 pandemic, including providing information regarding its implementation of the Attorney General's directives.

17. As of May 27, 2020, the BOP has increased home confinement by over 112% since March 2020, and is continuing to aggressively screen inmates for home confinement. Since the March 26, 2020 Memorandum instructing the BOP to prioritize home confinement as an appropriate response to the COVID-19 pandemic, the BOP has placed an additional 3,183 inmates on home confinement. See www.bop.gov.

18. Inmates do not need to apply to be considered for home confinement. BOP Case Management staff are urgently reviewing all inmates to determine which ones meet the criteria established by the Attorney General. While all inmates are being reviewed for suitability for home confinement, any inmate who believes he or she is eligible may request to be referred to home confinement and provide a release plan to his or her Case Manager.

19. It should be noted that for public safety reasons, in accordance with the March 26, 2020 Memorandum, and to ensure the BOP is deploying its limited resources in the most effective manner, the BOP is currently assessing a number of factors to ensure that an inmate is suitable for home confinement including, but not limited to, reviewing the inmate's institutional discipline history for the last twelve months; ensuring that the inmate has a verifiable release plan; verifying that the inmate's primary offense is not violent, a sex offense, or terrorism related; and confirming the inmate does not have a current detainer.

20. In addition, and in order to prioritize its limited resources, the BOP has generally prioritized for home confinement those inmates who have served a certain portion of their

sentences, or who have only a relatively short amount of time remaining in those sentences. While these priority factors are subject to deviation in BOP's discretion in certain circumstances and are subject to revision as the situation progresses, BOP is, at this time, prioritizing for consideration those inmates who either (1) have served 50% or more of their sentences, or (2) have 18 months or less remaining in their sentences and have served 25% or more of their sentences. As BOP processes the inmates eligible for home confinement under these criteria and learns more about the COVID-19 pandemic and its effect on BOP facilities, it is assessing whether and how to otherwise prioritize consideration.

21. I, along with Andre Matevousian, Acting Assistant Director, Correctional Programs Division, issued a Memorandum for BOP Chief Executive Officers on May 8, 2020 (BOP May 8, 2020 Memorandum), to provide additional insight regarding the implementation of the Attorney General's directives regarding home confinement. The BOP May 8, 2020 Memorandum stated, among other things, that in accordance with the March 26, 2020 memorandum and to ensure that the BOP is deploying its limited resources in the most effective manner, the following factors must be assessed to ensure inmates are suitable for home confinement:

- a. Reviewing the inmate's institutional discipline history for the last twelve months (Inmates who have received a 300 or 400 series incident report in the past 12 months may be referred for placement on Home Confinement, if in the Warden's judgment such placement does not create an undue risk to the community.)
- b. Ensure the inmate has a verifiable release plan;
- c. Verifying the inmate's primary offense is not violent, a sex offense, or terrorism related;

- d. Confirming the inmate does not have a current detainer;
- e. Priority should be given to inmates residing in Low and Minimum security facilities;
- f. Inmates who have anything above a Minimum PATTERN score not receiving priority treatment;
- g. And the age and vulnerability of the inmate to COVID-19, in accordance with the CDC guidelines.

22. The BOP May 8, 2020 Memorandum also noted that if the Warden determined that there is a need to refer an inmate for placement in the community due to COVID-19 risk factors who is outside of the above-listed criteria, then the Warden should forward the home confinement referral to the Correctional Programs Division in Central Office for further review.

23. It should be noted that no single one of the factors noted in this declaration will automatically disqualify an inmate for home confinement. The fact that an inmate's primary offense was violent, a sex offense, or terrorism related, or that the inmate has a current detainer, would not necessarily be disqualifying; however, the BOP will not deviate from any of these four factors except in the rarest circumstances. The BOP retains discretion to deviate from any factor where appropriate to maximize home confinement placements taking into account public safety and the totality of the circumstances.

The BOP's Central Office Home Confinement Review Committee

24. As mentioned above, if the Warden determines a need to refer an inmate for home confinement and that inmate does not meet the Attorney General's and the BOP's above-outlined criteria, the Warden may refer to the BOP's Correctional Programs Division in Central Office to be further reviewed for home confinement placement. This additional review is conducted by

the BOP's Central Office Home Confinement Review Committee (the Committee). The Committee is comprised of BOP officials from various BOP Central Office Divisions and disciplines.

25. As of May 13, 2020, before the Committee gives final approval for an inmate to be placed on home confinement, who does not meet the criteria outlined by the Attorney General, the BOP Correctional Programs Division provides notice of its consideration to the United States Attorney's Office that prosecuted the inmate. In so doing, the United States Attorney's Office is given an opportunity to provide additional information, including information from victims, which might be relevant to the decisional process. The United States Attorney's Office then has three business days to provide any additional information to the BOP. The BOP retains full discretion to make the decision with or without this input based on a flexible consideration of the criteria and the totality of the circumstances, including the risks associated with COVID-19 virus. The notification requirement will not be applied to inmates approved for home confinement prior to this requirement's adoption on May 13, 2020.

26. As mentioned earlier in this declaration, the BOP is devoting all available resources to faithfully executing the Attorney General's directives. As such, BOP institution staff have been charged with conducting the home confinement assessments for the inmates located at that institution utilizing the Attorney General's directives and BOP guidance to determine which inmates are suitable for home confinement. This allows the BOP to tailor their resources according to the needs of the individual institutions across the county and to conduct the home confinement assessments as expeditiously as possible. The Committee then reviews those cases that have been referred by the institutions' Wardens, based on the reasons stated in paragraph 24, so that the Committee can determine if the individual, despite having deviations from the

Attorney General's criteria in his or her background, is suitable for home confinement after a multi-disciplinary assessment and additional input from the U.S. Attorney's Office. This entire process ensures that inmates are reviewed for suitability for home confinement in a careful and individualized way that remains faithful to the BOP's duty to protect the public.

Further Assessment of Elkton Inmates

by the BOP's Central Office Home Confinement Review Committee

27. As a result of the above-titled litigation, the Warden of Elkton referred 25 inmates to the Committee. Upon information and belief, the institution's initial review of these 25 inmates deemed them not suitable for home confinement under the Attorney General's and BOP's criteria and guidance based on certain factors which presented themselves during the individualized assessments, including but not limited to, having a low (as opposed to minimum) PATTERN score, having a history of violence, and/or not yet meeting the service of sentence criteria. In order to comply with the Court's order in the above-titled litigation, the Committee approved 17 of these referred inmates for home confinement placement. In order to comply with the Court's order in the above-titled litigation, the Committee determined to transfer the other eight inmates to another BOP facility.

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28. On or about May 27, 2020, as a result of the above-titled litigation, FCI Elkton referred another 53 inmates to the Committee. Those inmates are pending review with the Committee.

I declare that the foregoing is true and correct to the best of my knowledge and belief, and is given under penalty of perjury pursuant to 28 U.S.C. § 1746 this 28th day of May, 2020.

RESPECTFULLY SUBMITTED,

**HUGH
HURWITZ**

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HUGH J. HURWITZ
ASSISTANT DIRECTOR
FEDERAL BUREAU OF PRISONS
WASHINGTON, D.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

WILSON, ET AL,

Petitioners

v.

WILLIAMS, ET AL,

Respondents

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CASE NO. 4:20-CV-00794

JUDGE GWIN

DECLARATION OF SHANNON ROBBINS

I, Shannon Robbins, do hereby make the following declaration:

1. I, Shannon Robbins, am employed by the Federal Bureau of Prisons (BOP) at the Designation and Sentence Computation Center (DSCC) in Grand Prairie, Texas. I have been employed by the Federal Bureau of Prisons (BOP) since 1998. I have been a Section Chief at the DSCC since July 2018 and assumed oversight of the Designations and Transportation Section in January 2020.
2. I currently have overall responsibility for all designation and classification issues, as well as having oversight responsibility of Justice Prisoner and Alien Transportation System (JPATS) and transportation issues.
3. The DSCC is divided into 18 teams of staff, each identified by a name. Seventeen of these teams are organized by sentencing district. Those 17 teams are responsible for all sentence computations and classification of defendants from their sentencing districts.

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4. The remaining team is Hotel Team. The Hotel Team is responsible for initial designations, redesignations, management variable requests, and public safety factor waiver requests.
5. In this position, I have access to official records compiled and maintained by the BOP, including BOP Program Statements, inmate files, and BOP computerized records.
6. Some of the BOP's computerized records are maintained in a database named SENTRY. SENTRY is a real-time information system consisting of various applications for processing inmate information. Data collected and stored in the SENTRY system includes information related to the classification, discipline, and programs of federal inmates.
7. All records attached to this declaration were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters.
8. Such records were kept in the course of a regularly conducted business activity of the BOP and/or the DSCC.
9. Such records were made by the BOP and/or the DSCC as a regular practice.

THE BOP'S DESIGNATION AUTHORITY UNDER 18 U.S.C. §3621(b)

10. Attachment A to this declaration is a true and correct copy of BOP Program Statement 5100.08, Inmate Security Designation and Custody Classification (the "Program Statement").
11. The BOP issued the Program Statement to provide guidance to staff on how to apply Title 18 United States Code (U.S.C.) § 3621(b), which states in pertinent part:

The Bureau of Prisons shall designate the place of the prisoner's imprisonment. The Bureau may designate any available penal or correctional facility that meets minimum standards of health and habitability established by the Bureau, whether maintained by the Federal Government or otherwise and whether within or without the judicial district in which the person was convicted, that the Bureau determines to be appropriate and suitable, considering—

- (1) the resources of the facility contemplated;
- (2) the nature and circumstances of the offense;
- (3) the history and characteristics of the prisoner;
- (4) any statement by the court that imposed the sentence –
 - (A) concerning the purposes for which the sentence to imprisonment was determined to be warranted; or
 - (B) recommending a type of penal or correctional facility as appropriate;
- and
- (5) any pertinent policy statement issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28.

See 18 U.S.C. § 3621(b) (Emphasis added).

OVERVIEW OF THE BOP'S DESIGNATION PROCESS

12. The BOP created the DSCC to centralize all determinations regarding inmate sentence computations and institution placements.
13. Decisions regarding initial institution placements are referred to as designations.
14. Once a defendant is sentenced to a federal term of imprisonment, staff of the United States Probation Office (USPO) upload documents to an electronic system known as eDesignate. For cases involving original sentencing to a term of imprisonment, these documents typically include the Judgement in a Criminal Case and the Presentence Investigation Report (PSR). For cases involving sentencing to a term of imprisonment based upon revocation of a term of supervised release, these documents typically include the order by which the court revoked supervised release and imposed a term of imprisonment, along with the revocation petition, which BOP staff also refer to as the violation report.
15. Once USPO staff have uploaded the relevant documents, the case is transferred in eDesignate to the United States Marshals Service (USMS). Typically, USMS staff then upload a copy of the defendant's USM-129, *Individual Custody/Detention Report*, to eDesignate and then use eDesignate to transfer the case to the BOP to request that the DSCC either provide a release date for the defendant (in cases where the defendant received a short sentence and there is not

sufficient time to transport him to a facility before his release date) or designate the defendant to a facility to serve the term of imprisonment.

16. Once a case has been transferred from the USMS to the BOP, staff of the DSCC team assigned to the defendant's sentencing district will open the case and begin the designation process. When the process has been completed, DSCC staff respond to the USMS request through eDesignate, usually by notifying the USMS where the inmate will serve the term of imprisonment. The USMS then transports the inmate to the designated facility or, if the defendant has been allowed to voluntarily surrender, the USMS will notify the defendant of the facility at which he must appear on the scheduled date.

FACTORS IN THE DESIGNATION PROCESS

17. When making decisions about inmate designations, the BOP follows the guidance contained in the Program Statement which provides:

This Program Statement provides policy and procedure regarding the Bureau of Prisons inmate classification system. The classification of inmates is necessary to place each inmate in the most appropriate security level institution that also meets their program needs and is consistent with the Bureau's mission to protect society.

The Bureau's classification, designation and redesignation procedures are consistent with the statutory authority contained in 18 U.S.C. § 3621(b). All classification, designation and redesignation decisions are made without favoritism given to an inmate's social or economic status.

Attachment A, PS 5100.08 at page 1.

18. Consistent with the Program Statement, DSCC staff on the team assigned to the defendant's sentencing district consider the following primary factors when making a designation decision: (1) the level of security and supervision the inmate requires; (2) the level of security and staff supervision the institution is able to provide; and (3) the inmate's program needs. *Attachment A, PS 5100.08 at Chapter 1, page 1.*

19. DSCC staff also consider additional factors including, but not limited to:

- The inmate's release residence;
- The level of overcrowding at an institution;
- Any security, location or program recommendation made by the sentencing court;
- Any Central Inmate Monitoring issues (see Program Statement Central Inmate Monitoring Program);
- Any additional security measures to ensure the protection of victims/witnesses and the public in general; and,
- Any other factor(s) which may involve the inmate's confinement; the protection of society; and/or the safe and orderly management of a BOP facility.

Attachment A, PS 5100.08 at Chapter 1, pages 1-2.

20. The designation process involves two parts. First, DSCC staff on the team responsible for the inmate's sentencing district classify the inmate according to a security level (minimum, low, medium or high) and assign the inmate a custody level (community, out, in, or maximum). Second, DSCC staff on Hotel Team designate the inmate to a particular facility commensurate with their security level and custody level and the factors identified in paragraphs 18, 19, and 42 to 45.

21. An inmate's security level represents the level of security the inmate requires. It is based on the Criminal History Points as noted in the Presentence Investigation Report, and, if these points are contested, as ruled upon by the Court in the Statement of Reasons. The BOP has created Public Safety Factors and Management Variables which may adjust the inmate's security level up or down depending on the BOP's professional judgment. *Attachment A, PS 5100.08 at Chapter 5.*

22. An inmate's custody classification represents the amount of staff supervision the inmate requires. It is tied to an inmate's security level. *Attachment A, PS 5100.08 at Chapter 1, page 2 and Chapter 2, page 2.*

23. BOP facilities are identified as follows: Minimum security institutions, also known as Federal Prison Camps (FPCs), have dormitory housing, a relatively low staff-to-inmate ratio, and limited or no perimeter fencing. These institutions are work- and program-oriented. A number of BOP institutions have a small, minimum security camp adjacent to the main facility. These camps, often referred to as Satellite Prison Camps (SCPs), provide inmate labor to the main institution and to off-site work programs.

24. Low security Federal Correctional Institutions (FCIs) have double-fenced perimeters, mostly dormitory or cubicle housing, and strong work and program components. The staff-to-inmate ratio in these institutions is higher than in minimum security facilities.

25. Medium security FCIs (and USPs designated to house medium security inmates) have strengthened perimeters (often double fences with electronic detection systems), mostly cell-type housing, a wide variety of work and treatment programs, an even higher staff-to-inmate ratio than low security FCIs, and even greater internal controls.

26. High security institutions, also known as United States Penitentiaries (USPs), have highly secured perimeters (featuring walls or reinforced fences), multiple- and single-occupant cell housing, the highest staff-to-inmate ratio, and close control of inmate movement.

27. Administrative facilities are institutions with special missions, such as the detention of pretrial offenders; the treatment of inmates with serious or chronic medical problems; or the containment of extremely dangerous, violent, or escape-prone inmates. Administrative facilities include Metropolitan Correctional Centers (MCCs), Metropolitan Detention Centers (MDCs), Federal Detention Centers (FDCs), Federal Medical Centers (FMCs), the Federal Transfer Center (FTC), the Medical Center for Federal Prisoners (MCFP), and the Administrative-Maximum

Security Penitentiary (ADX). Administrative facilities, except the ADX, are capable of holding inmates in all security categories.

THE REDESIGNATION PROCESS

28. Under some circumstances, the BOP may transfer an inmate to a different institution following initial designation. This is referred to as a redesignation. Reasons for requesting redesignation include, but are not limited to, disciplinary or closer supervision reasons, institution classification reasons, institution adjustment reasons, medical/psychological reasons, programming or training reasons, or because an inmate is nearing release. *Attachment A, PS 5100.08 at Chapter 7, pages 1-12.*

29. If institution staff believe an inmate is no longer appropriate for his current institution based on any of the factors identified in Chapter 7 of the Program Statement, they submit a redesignation request to the DSCC. Ordinarily, the DSCC will decide whether to grant or deny the request. DSCC staff will consider redesignation requests using the same factors outlined in paragraphs 18, 19, and 42 to 45. In deciding whether to grant or deny a redesignation request, DSCC staff also carefully review the inmate's institutional adjustment and program performance. *Attachment A, PS 5100.08 at Chapter 1, page 3 and Chapter 7.*

30. If the request is granted, the DSCC will designate the inmate to another facility. If the request is denied, the inmate will remain at the same facility.

PRELIMINARY INJUNCTION

31. I am aware the BOP has been ordered by the Court in *Wilson, et al. v. Williams, et al.*, No. 4:20-cv-00794 (N.D. Ohio Apr. 22, 2020), to create a list of inmates at FCI Elkton identified by the CDC as being at higher risk of complications from COVID-19.

32. I further understand that BOP has been ordered to evaluate each inmate that is identified for transfer out of FCI Elkton through any means, including but, not limited to, compassionate release, parole or community supervision, transfer furlough, or non-transfer furlough within two weeks.

33. I further understand that BOP has been ordered to transfer any identified inmate who is ineligible for compassionate release, home release, parole, or community supervision to another BOP facility.

34. I further understand that BOP has compiled a list of 846 inmates who are over the age 65 and/or have diagnosed medical conditions that are identified by the CDC as making an individual at higher risk of complications from COVID-19.

36. Finally, I understand that inmates transferred from FCI Elkton are to be sent to another BOP facility where measures, such as single-cell placement or social distancing, may be accomplished.

37. In preparation for complying with the Court Order, I am aware that the Correctional Programs Administrator for the Northeast Region developed a plan to transfer these inmates from FCI Elkton beginning on or about June 5, 2020.

38. However, in light of factors external to this litigation, the DSCC has determined that the transfer of these inmates would be managed by the Designations and Transportation Section. This decision was made due to the BOP's need to move large groups of federal inmates over the next several weeks. Specifically, the BOP and the United States Marshal Service (USMS) agreed that the USMS would begin the transfer of approximately 7,600 new inmates who are currently housed by the USMS in local county and state facilities nationwide to one of the BOP's three quarantine sites for new inmates or a BOP detention center or jail unit, as well as transfer

approximately 7,000 inmates who are currently housed in BOP facilities awaiting movement to their designated facilities. In addition, the BOP has to find new BOP facilities for 468 inmates who were originally scheduled to be placed at institutions in West Virginia.

39. In order to mitigate the transmission of COVID-19 into the federal prisons system, the BOP has limited internal inmate movement. However, the USMS continues to receive and hold newly sentenced and newly committed inmates in local detention facilities across the country. The BOP and USMS are moving the approximately 15,000 newly committed inmates into BOP custody to alleviate population pressures on the local detention facilities. *See Attachment B, U.S. Department of Justice Federal Bureau of Prisons Press Release, Bureau of Prison Announces Update on Inmate Movement*, dated May 22, 2020.

40. It should also be noted that these moves have to be scheduled with the cooperation of the USMS, JPATS which is another component of the Department of Justice, but a separate entity from the BOP.¹ Additionally, in order to provide for distancing during the course of the transfers, buses will only be able to accommodate 20 inmates per bus and 60 inmates per airlift. This is approximately a 50% decrease of what a transfer would normally be able to accommodate.

41. The Court has ordered that 846 inmates transferred from FCI Elkton be sent to another BOP facility where measures, such as single-cell placement or social distancing, may be accomplished. As previously indicated, the BOP will be moving approximately 15,000 new inmates to various BOP institution over the next several weeks. This movement will impact the amount of single-celled bed space available throughout the BOP's system.

¹ JPATS is responsible for coordinating the transportation of offenders throughout the country.

42. To designate these 846 inmates from FCI Elkton, the DSCC will consider each prospective institution's rated capacity and the number of inmates currently assigned to the institution to determine whether there is space to add additional inmates. Ordinarily, the Warden would determine how the available dormitory or cell space is used (single cell, double cell, etc.) to house inmates. In light of the Court's Order, contact will be made with each institution to ensure the FCI Elkton inmates are placed into single cells. This may result in other inmates at the prospective institution being relocated to different cells or housing units.

43. While the BOP has put in place social distancing measures for the benefit of inmates and staff during the pandemic, an institution's social distancing measures are highly dependent on the number of inmates and the physical layout of the respective institution. For example, the measures in place at a BOP camp or low security institution would certainly differ from those taken at one of BOP's medium or maximum security institutions.

44. In addition to bed space capacity and availability of social distancing, the DSCC considers several other factors when re-designating inmates. These include, but are not limited to, programming needs such as the Residential Drug Abuse Program (RDAP) and sex offender treatment programs, location recommendations from the inmate's sentencing judge, medical and mental health care levels, separation issues, and gang concerns. RDAP and sex offender treatment programs are not available at every BOP institution. RDAP is available at 73 institutions, including FCI Elkton, and sex offender treatment is available at nine institutions, including FCI Elkton. Given the number of USMS inmates who need to be placed and the Court's restrictions on housing the 846 FCI Elkton inmates, these inmates may not be able to continue participating in RDAP or sex offender treatment programs, thereby causing lapses in and adversely impacting their treatment.

45. Another factor my office has to consider is the First Step Act of 2018 (FSA). Section 601 of the FSA requires the BOP to place inmate in facilities as close as practicable to their primary residence, and to the extent practicable, in a facility within 500 driving miles of that residence.

Specifically, the FSA amended 18 U.S.C. § 3621(b) to state:

The Bureau of Prisons shall designate the place of the prisoner's imprisonment, and shall, subject to bed availability, the prisoner's security designation, the prisoner's programmatic needs, the prisoner's mental and medical health needs, any request made by the prisoner related to faith-based needs, recommendations of the sentencing court, and other security concerns of the Bureau of Prisons, place the prisoner in a facility as close as practicable to the prisoner's primary residence, and to the extent practicable, in a facility within 500 driving miles of that residence. The Bureau shall, subject to consideration of the factors described in the preceding sentence and the prisoner's preference for staying at his or her current facility or being transferred, transfer prisoners to facilities that are closer to the prisoner's primary residence even if the prisoner is already in a facility within 500 driving miles of that residence."

44. All of these factors taken together further limit the number of available options for transfer.

45. Given the limited availability of single-cell bed space, these inmates will likely have to be transferred to institutions outside of 500 driving miles of their primary residences, which may pose additional problems for their families and friends to visit.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on this 28 day of May 2020.

Shannon Robbins

Shannon Robbins, Section Chief
Designation and Sentence Computation Center
Federal Bureau of Prisons
Grand Prairie, Texas



U.S. Department of Justice
Federal Bureau of Prisons

CHANGE NOTICE

OPI: CPD/CPB
NUMBER: 5100.08, CN-1
DATE: September 4, 2019

Inmate Security Designation and Custody Classification

/s/

Approved: Kathleen Hawk Sawyer
Director, Federal Bureau of Prisons

This Change Notice (CN) implements the following changes to Program Statement 5100.08, **Inmate Security Designation and Custody Classification**, dated September 12, 2006, in light of the FIRST STEP Act.

The highlighted text was added to **INTRODUCTION**:

The Bureau of Prisons shall designate the place of the prisoner's imprisonment, and shall, subject to bed availability, the prisoner's security designation, the prisoner's programmatic needs, the prisoner's mental and medical health needs, any request made by the prisoner related to faith-based needs, recommendations of the sentencing court, and other security concerns of the Bureau of Prisons, place the prisoner in a facility as close as practicable to the prisoner's primary residence, and to the extent practicable, in a facility within 500 driving miles of that residence.

The highlighted text was added and the deleted text is struck through in **Chapter 5, MANAGEMENT VARIABLES AND PUBLIC SAFETY FACTORS**:

D **Release Residence.** The Bureau of Prisons attempts to place each inmate in an institution that is reasonably close to the anticipated release area. ~~Ordinarily, placement within 500 miles of the release area is to be considered reasonable, regardless of whether there may be an institution closer to the inmate's release area.~~ To the extent practicable, placement to the closest facility within 500 driving miles of the release area will be considered reasonable, subject to bed availability, the prisoner's security designation, the prisoner's programmatic needs, the prisoner's mental and medical health needs, any request made by the

GOVERNMENT
EXHIBIT

DA

prisoner related to faith-based needs, recommendations of the sentencing court, and other security concerns of the Bureau of Prisons. This MGTV may also apply to inmates who are within 36 months of release.

- E Following are example situations: facility activation; population pressures affecting available appropriate-level bed space within 500 driving miles of the inmate's anticipated release residence; gang/security concerns.

Additionally highlighted text was added and the deleted text is struck through in **Chapter 7, Institution Classification Transfers.**

2. NEARER RELEASE TRANSFERS (Code 313). Once the inmate has been transferred within 500 driving miles of his or her release residence, ~~no further referrals will be made for nearer release transfer consideration.~~ further referrals can be considered for nearer release transfer consideration subject to bed availability, the prisoner's security designation, the prisoner's programmatic needs, the prisoner's mental and medical health needs, any request made by the prisoner related to faith-based needs, recommendations of the sentencing court, and other security concerns of the Bureau of Prisons.



Program Statement

OPI: CPD/CPB
NUMBER: P5100.08
DATE: 9/12/2006
SUBJECT: Inmate Security
Designation and Custody
Classification

1. **PURPOSE AND SCOPE.** This Program Statement provides policy and procedure regarding the Bureau of Prisons inmate classification system. The classification of inmates is necessary to place each inmate in the most appropriate security level institution that also meets their program needs and is consistent with the Bureau's mission to protect society.

The Bureau's classification, designation and redesignation procedures are consistent with the statutory authority contained in 18 U.S.C. § 3621(b). All classification, designation and redesignation decisions are made without favoritism given to an inmate's social or economic status.

2. **PROGRAM OBJECTIVES.** The expected results of this Program Statement are:

a. Each inmate will be placed in a facility commensurate with their security and program needs through an objective and consistent system of classification which also allows staff to exercise their professional judgement; and,

b. Staff will systematically and objectively review an inmate's classification making the environment in which they are housed safer for both inmates and staff while protecting the public from undue risk.

3. **SUMMARY OF CHANGES.** This revision incorporates Executive Staff decisions 03-04-05 and 99-03-03, as well as other procedural changes such as the movement of most designation/redesignation functions (04-08-17) to the Designation and Sentence Computation Center (DSCC), Grand Prairie, Texas.

a. The scoring item "Type of Prior Commitment" has been replaced with "Criminal History Score." (Chapter 4, Page 8 and Chapter 6, Page 5)

b. A new scoring item for inmate "Age" has been added. (Chapter 4, Page 12 and Chapter 6, Page 8)

c. A new scoring item for "Education Level" has been added. (Chapter 4, Page 12 and Chapter 6, Page 8)

d. The "Drug/Alcohol Abuse" scoring item has been added to the BP-337 and has moved from Section C (Custody Scoring) of the BP-338 to Section B (Base Scoring) of the BP-338. (Chapter 4, Page 13 and Chapter 6, Page 9)

e. The "Mental/Psychological Stability" scoring item has been discontinued.

f. The "Responsibility Demonstrated" scoring item has been replaced with "Living Skills" and "Program Participation." (Chapter 6, Page 10)

g. Instructions for scoring the "Family/Community Ties" scoring item have been clarified. (Chapter 6, Page 13)

h. The floor for the Violent Behavior PSF has been reduced from High to Low Security. (Chapter 5, Page 9)

i. New cutpoints and a new Custody Variance Table have been developed. (Chapter 1, Page 2 and Chapter 6, Page 15)

j. An expiration date for the Greater Security Management Variable has been added. (Chapter 5, Page 5)

k. The criteria for the Deportable Alien PSF has been clarified. (Chapter 5, Page 9)

l. Text has been added that formalizes the Bureau's past and current practice of continually assessing the effectiveness of its inmate classification process. (Program Statement Section 6)

m. Text has been added that encourages DSCC staff to consider using a Management Variable when designating inmates where age is largely the contributing factor in the inmate's placement. (Chapter 5, Page 5)

n. Text has been revised that requires the entry of supporting information in the BP-337 "REMARKS SECTION" when there is Pre-Sentence Investigation Report information relevant to that scoring item. (Chapter 4, Page 13)

o. The DSCC Administrator will ensure that designation/redesignation decisions are applied consistently on a bureau- wide basis. (Chapter 4, Page 14)

p. DSCC staff must contact the sentencing court if a Statement of Reasons is not received at the time a request for designation is made. (Chapter 3, Page 1)

q. Inmates who currently qualify for unescorted transfer may be transported by family members via POV from one camp to another camp. (Chapter 7, Page 8)

r. The appendices on Sentence Procedures, Institutions Missions and Parolable Institutions have been removed from the manual, but will be available on the CPB website.

s. The Offense Severity Scale, Definition of Roles involved in Drug Offenses and the Special Instructions appendices have been combined into one appendix.

t. All transfer requests under codes 309 - Disciplinary and 323 - Close Supervision will be directed to the Designation and Sentence Computation Center. "W REDES C" has been eliminated and "W REDES D" has been changed to "W REDES R" to reflect routine redesignations. (Chapter 7, Page 2)

u. The female versions of the BP-337 and BP-338 have been discontinued although certain policies and procedures specific to female offenders are maintained i.e. security levels, cutpoints, Public Safety Factors and Management Variables.

v. The "Release on Own Recognizance" scoring item has been discontinued. (Chapter 4, Page 5)

w. The description of Management Variable "U" has been revised to include all long-term detainees. It no longer applies solely to Mariel Cuban Detainees. (Chapter 5, Page 4)

x. The medical transfer code descriptions were revised to include "Level of Care" language. (Chapter 7, Pages 21-22)

y. The criteria for the Prison Disturbance PSF has been clarified. (Chapter 5, Page 10)

4. DIRECTIVES AFFECTED

a. Directive Rescinded

P5100.07 Security Designation and Custody Classification Manual (9/3/99)

b. Directives Referenced

P5070.10 Responses to Judicial Recommendations and U.S. Attorney Reports (6/30/97)

P5070.11 Study and Observation Report (12/31/97)

P5110.15 Notifications of Release to State and Local Law Enforcement Officials (8/30/00)

P5111.03 Mariel Cuban Detainees (10/25/99)

P5140.35 Transfer of a Prisoner to State Custody Prior to Release from the Federal Sentence (9/12/01)

P5141.02 Sex Offender Notification and Registration (12/14/98)

P5180.04 Central Inmate Monitoring System (8/16/96)

P5215.05 Youth Corrections Act (YCA), Inmates and Programs (3/17/99)

P5216.05 Juvenile Delinquents (9/1/99)

P5264.07 Telephone Regulations for Inmates (1/31/02)

P5270.07 Inmate Discipline and Special Housing Units (12/29/87)

P5280.08 Furloughs (2/4/98)

P5553.07 Escapes/Deaths Notifications (2/10/06)

P5800.13 Inmate Systems Management Manual (6/28/02)

P7310.04 Community Corrections Center (CCC) Utilization and Transfer Procedure (12/16/98)

5. STANDARDS REFERENCED

a. American Correctional Association 2nd Edition Standards for Administration of Correctional Agencies: 2-CO-4B-01

b. American Correctional Association 4th Edition Standards for Adult Correctional Institutions: 4-4132, 4-4296, 4-4300, 4-4306, and 4-4444

c. American Correctional Association 4th Edition Performance- Based Standards for Adult Local Detention Facilities:
4- ALDF-1A-10, 4-ALDF-2A-31, and 4-ALDF-2A-37

6. **ACTION.** All inmate classification decisions and related actions will be made in accordance with the procedures in this Program Statement and are effective immediately. Implementation for each inmate shall occur in accordance with his or her next regularly scheduled custody review. Those cases that have a security level increase as a direct result of the initial implementation of this policy will not ordinarily be transferred to a higher security facility. Bureau institutions may submit lists of these inmates to the DSCC in lieu of a Request for Management Variable for application of an appropriate Management Variable.

In accordance with the procedures set forth in this manual, a Transfer Request/Application of Management Variable must be submitted to the DSCC for those cases that have a security level decrease, for transfer to a lesser security level facility or application of an appropriate Management Variable.

This Program Statement authorizes the continuation of the Bureau's Inmate Classification Workgroup under the direction of the Assistant Director, Correctional Programs Division or his/her designee. The Assistant Director (CPD) will select and replace workgroup members, on an as-needed basis, with subject matter experts in inmate classification and related disciplines who represent institutions, Regional Offices and the Central Office.

The Inmate Classification Workgroup or its subgroups will meet or video conference at least annually to assess the overall effectiveness of the inmate classification system and report as appropriate their findings and recommendations to the Director and the agency's Executive Staff. Consideration may be given to include institutional staff with experience at various security and custody levels.

/s/
Harley G. Lappin
Director

P5100.08
9/12/2006

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The Sentence Procedures Appendix, Institution Missions
Appendix and the Parolable Institutions Appendix can be found
on the Correctional Programs Branch (CPB) web page.

Quarterly updates
will be made based upon submissions by the respective regions
to the DSCC Administrator.

INTRODUCTION

Bureau of Prisons (BOP) institutions are classified into one of five security levels: **MINIMUM, LOW, MEDIUM, HIGH,** and **ADMINISTRATIVE** based on the level of security and staff supervision the institution is able to provide.

An institution's level of security and staff supervision is based on the following factors:

- | | |
|-----------------------|--------------------------------------|
| ! mobile patrol; | ! internal security; |
| ! towers; | ! type of inmate housing; |
| ! perimeter barriers; | ! inmate-to-staff ratio; and, |
| ! detection devices; | ! any special institutional mission. |

Similarly, BOP inmates are classified based on the following factors:

- The level of security and supervision the inmate requires; and,
- The inmate's program needs, i.e., substance abuse, educational/vocational training, individual counseling, group counseling, or medical/mental health treatment, etc.

In summary, the initial assignment (designation) of an inmate to a particular institution is based primarily upon:

- The level of security and supervision the inmate requires;
- The level of security and staff supervision the institution is able to provide; and,
- The inmate's program needs.

Additional factors that are also considered when designating an inmate to a particular institution include, but are not limited to:

- The inmate's release residence;
- The level of overcrowding at an institution;
- Any security, location or program recommendation made by the sentencing court;

- Any Central Inmate Monitoring issues (see Program Statement Central Inmate Monitoring Program);
- Any additional security measures to ensure the protection of victims/witnesses and the public in general; and,
- Any other factor(s) which may involve the inmate's confinement; the protection of society; and/or the safe and orderly management of a BOP facility.

Initial designations to BOP institutions are initiated, in most cases by staff at the Designation and Sentence Computation Center (DSCC), Grand Prairie, Texas, who assess and enter information from the sentencing court, U.S. Marshals Service, U.S. Attorneys Office or other prosecuting authority and the U.S. Probation Office about the inmate into a computer database (SENTRY).

The Bureau of Prisons shall designate the place of the prisoner's imprisonment, and shall, subject to bed availability, the prisoner's security designation, the prisoner's programmatic needs, the prisoner's mental and medical health needs, any request made by the prisoner related to faith-based needs, recommendations of the sentencing court, and other security concerns of the Bureau of Prisons, place the prisoner in a facility as close as practicable to the prisoner's primary residence, and to the extent practicable, in a facility within 500 driving miles of that residence.

SENTRY then calculates a point score for that inmate which (for example, 18 points) is then matched with a commensurate security level institution.

Security Level	Custody Level	Male	Female
MINIMUM	COMMUNITY and OUT	0-11 points	0-15 points
LOW	OUT and IN	12-15 points	16-30 points
MEDIUM	OUT and IN	16-23 points	*
HIGH	IN and MAXIMUM	24+ points	31+ points
ADMINISTRATIVE	All custody levels	All point totals	All point

An inmate's security point score is not the only factor used in determining a commensurate security level for an inmate. The application of a PSF or MGTV could effect placement at either a higher or lower level institution than the specified point total indicates. (SEE CHAPTER 5 FOR MORE DETAILED INFORMATION)

NOTE: A security level cannot be assigned by SENTRY without completing an Inmate Load and Security Designation Form. If an inmate has not been assigned a security level, SENTRY will automatically assign "UNKNOWN" as the security level.

* Female security level institutions are classified as Minimum, Low, High and Administrative.

Once all necessary information has been entered into the SENTRY database, a DSCC or Medical Designations Officer, (hereafter, Designator) selects an institution for service of sentence based on all the previously mentioned factors.

Redesignations (transfers) from one Bureau institution to another are considered in much the same manner using many of the same factors used at the time of initial designation. In addition, the inmate's institutional adjustment and program performance are also carefully reviewed when redesignation is considered.

Finally, an initial custody level (COMMUNITY, IN, OUT, MAXIMUM) is also assigned to the inmate that is consistent with the institutions mission. (See previous chart). An inmate's custody level within any given security level institution is routinely reviewed and may change for various reasons during the period of incarceration.

DEFINITIONS

ADMINISTRATIVE INSTITUTION. An institution with a special mission, where inmates are assigned based on factors other than security and/or staff supervision (for example, medical/mental health, pretrial and holdover). Administrative institutions are designed to house all security level inmates.

CENTRAL INMATE MONITORING (CIM). The Bureau monitors and controls the transfer, temporary release, and community activities of certain inmates who present special needs for management. Such inmates, known as Central Inmate Monitoring cases, require a higher level of review prior to any movement outside the institution.

CLASSIFICATION. The systematic subdivision of inmates into groups based on their security and program needs.

COMMUNITY CUSTODY. The lowest custody level assigned to an inmate which affords the lowest level of security and staff supervision. An inmate who has **COMMUNITY** custody may be eligible for the least secure housing, including any which is outside the institution's perimeter, may work on outside details with minimal supervision, and may participate in community-based program activities if other eligibility requirements are satisfied.

CONTRACT FACILITY. A state or local prison, institution, facility, jail, or other non-federal enterprise that contracts with the Bureau to house federal inmates (i.e., Community Corrections Center). Contract facilities are contracted and supervised by the CCMs.

CRIMINAL HISTORY POINTS. Criminal History Points are used to calculate the Bureau's Criminal History Score. The Criminal History Points is the calculation, as specified by the U.S. Sentencing Commission Guidelines (Guidelines Manual, Chapter 4), which assigns a numerical value based on the individuals entire criminal record of convictions. Ordinarily, the Criminal History Points are calculated by the United States Probation Office.

CRIMINAL HISTORY SCORE (CHS). The CHS is one of the factors used to calculate the inmate's security point total. The CHS is derived from the Criminal History Points whereby the Criminal History Points fall into one of six categories.

CURRENT OFFENSE. For classification purposes, the current offense is the most severe documented instant offense behavior regardless of the conviction offense.

CUSTODY CLASSIFICATION. The review process to assign a custody level based on an inmate's criminal history, instant offense, and institutional adjustment. A custody level (i.e., **COMMUNITY, OUT, IN,** and **MAXIMUM**) dictates the degree of staff supervision required for an individual inmate.

DESIGNATION. An order from the DSCC indicating the initial facility of confinement for an inmate.

DESIGNATION FACILITY (DFCL). Each of the separate missions within an institution for designation purposes. Each DFCL is shown as a separate line on the Population Report and has its own security level and destination (DST) assignment.

Designations are made to a DFCL code rather than to a facility (FACL) code.

JUDGMENT. The official court document (e.g., Judgment and Commitment Order or Judgment in a Criminal Case) which is signed by the Judge. The Judgment contains the offense(s) for which the court imposes its sentence, which ordinarily includes a financial, confinement and supervision obligation.

HISTORY. The inmate's entire background of criminal convictions (excluding the current offense) and institutional disciplinary findings used to assess points related to his/her history of violence and/or history of escape.

IN CUSTODY. The second highest custody level assigned to an inmate which requires the second highest level of security and staff supervision. An inmate who has **IN** custody is assigned to regular quarters and is eligible for all regular work assignments and activities under a normal level of supervision.

Inmates with **IN** custody are not eligible for work details or programs outside the institution's secure perimeter.

LEGAL RESIDENCE. The inmate's local and state address as reported by the United States Probation Office at the time of conviction.

LONG-TERM DETAINEE. A non-U.S. citizen (alien) who has:

- finished serving a local, state, or federal sentence;
- completed immigration proceedings that have resulted in an order of deportation, exclusion, or other means of

removal by either the Executive Office for Immigration Review (EOIR), or the Bureau of Immigration and Customs Enforcement (ICE), formerly the Immigration and Naturalization Service (INS); and,

- cannot be removed from the country for various reasons.

MANAGEMENT SECURITY LEVEL (MSL). Management Security Level is the security level assigned by the DSCC Administrator or designee to an inmate upon application of any of the following Management Variables:

- PSF Waived;
- Greater Security; and,
- Lesser Security.

Based on these Management Variables, the Management Security Level will normally be one security level greater or lesser than the scored security level.

MANAGEMENT VARIABLE. A Management Variable (MGTVs) reflects and supports the professional judgment of Bureau staff to ensure the inmate's placement in the most appropriate level institution. A Management Variable(s) is required when placement has been made and/or maintained at an institution level inconsistent with the inmate's security score – a score which may not completely/ accurately reflect his or her security needs.

MAXIMUM CUSTODY. The highest custody level assigned to an inmate requiring the highest level of security and staff supervision. An inmate with **MAXIMUM** custody requires ultimate control and supervision. This classification is for individuals who, by their behavior, have been identified as assaultive, predacious, riotous, serious escape risks, or seriously disruptive to the orderly running of an institution. Accordingly, quarters and work assignments are assigned to ensure maximum control and supervision. A custody change to or from **MAXIMUM** custody must be justified thoroughly on the BP-338 form and maintained permanently in the Inmate Central File.

MISDEMEANANT. An inmate convicted of an offense for which the maximum penalty is one year or less. Such inmates may not be transferred to a High security institution without first signing a waiver. 18 U.S.C. § 4083 prohibits placement of such inmates in "penitentiaries" without their consent; however, the Bureau broadens that prohibition to include any High security institution. A sample of the waiver is provided in Appendix B.

OUT CUSTODY. The second lowest custody level assigned to an inmate requiring the second lowest level of security and staff supervision. An inmate who has **OUT** custody may be assigned to less secure housing and may be eligible for work details outside the institution's secure perimeter with a minimum of two-hour intermittent staff supervision.

PAROLE, MANDATORY RELEASE, OR SPECIAL PAROLE TERM VIOLATOR.

Violators are inmates who were released from Bureau custody to the supervision of a D.C. or U.S. Probation Officer (USPO) and have violated the conditions of their release. These violators are returned to Bureau custody and are required to have a parole hearing within certain time limits. The purpose of this is to provide the inmate with an in-person hearing before the U.S. Parole Commission (USPC) to determine if the inmate has violated the conditions of parole, mandatory release, or special parole. Therefore it is necessary to temporarily place these individuals at parolable institutions in order to conduct parole hearings.

PRIVATIZED FACILITY. A prison, institution, or other correctional facility that is operated or supervised by a non- governmental entity. Privatized facilities are managed by private organizations or individuals with oversight provided by Bureau staff.

PUBLIC SAFETY FACTOR. There are certain demonstrated behaviors which require increased security measures to ensure the protection of society. There are nine Public Safety Factors (PSFs) which are applied to inmates who are not appropriate for placement at an institution which would permit inmate access to the community (i.e., MINIMUM security). The application of a PSF overrides security point scores to ensure the appropriate security level is assigned to an inmate, based on his or her demonstrated current or prior behavior.

REDESIGNATION. The reassignment of an inmate from one institution to another after initial designation. Unit staff submit a request to the DSCC, and the inmate's case is reviewed for possible transfer. Approval of a redesignation results in an order from DSCC staff indicating a correctional institution to which an inmate is to be transferred. The actual movement of an inmate from one institution or facility to another is referred to as a transfer.

RELEASE RESIDENCE. The verifiable destination to which an inmate realistically plans to reside upon release from Bureau custody. The inmate must provide proof of residence to his or her unit staff. Staff will rely upon the following references to assist in verification: Presentence Investigation Report/USPO

verification; telephone and visiting lists; and, incoming and outgoing mail.

SECONDARY DESIGNATION. The second part of a two part designation, usually after a temporary designation to receive medical/mental health treatment or to participate in a specific institutional program or parole hearing.

SECURITY LEVEL. Used to describe the structural variables and inmate-to-staff ratio provided at the various types of Bureau institutions (i.e., Minimum, Low, Medium, High). It also identifies the institution type required to house inmates based on their histories, institutional adjustment, and Public Safety Factors as well as the physical security of the institution to include mobile patrols, gun towers, perimeter barriers, housing, detection devices, inmate-to-staff ratio, and internal security.

STATEMENT OF REASONS. The Statement of Reasons (SOR) is an attachment to the criminal judgment (Judgment and Commitment Order; Judgment in a Criminal Case) which indicates the reason for the court's final sentence, and other sentencing related issues (e.g., resolution of disputed issues, changes in scoring, statements of court intent, etc.). It is required in every felony case where the sentencing range exceeds 24 months, or whenever there is a departure from the U.S. Sentencing Guidelines range. The court may complete an SOR even if not required.

STUDY CASE. A study case is an inmate who is committed for a period of study and observation pursuant to 18 U.S.C. §§ 3552(b) or (c)), 4241(b) or (d), 4242(a), 4243(a) or (b), 4244(b), 4245(b), 4246(b), or 4247(b) or (c)). An inmate committed for a study and observation will be referred to the Central Office Medical Designator in the Office of Medical Designations and Transportation (OMDT) for designation to a facility that can complete the study, considering any specific medical or psychiatric issues which should be addressed. The Central Office Medical Designator should attempt to place the inmate in the most suitable facility compatible with the offender's security and custody needs, closest to the court and available resources.

SECURITY DESIGNATION PROCEDURES FOR NEW COMMITMENTS
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The Designation and Sentence Computation Center will ordinarily complete the initial designation within three working days of receiving all the necessary documentation from the U.S. Marshals Service (USMS) and the U.S. Probation Officer (USPO) which includes the following: the Presentence Investigation Report (PSR), Judgment, Statement of Reasons (SOR), and Central Inmate Monitoring (CIM) documentation (in cases where a CIM assignment is necessary).

The DSCC will refer all requests for initial designation with potential medical/mental health concerns to the Office of Medical Designations and Transfers (OMDT), Health Services Division, Washington, D.C. no later than the following work day.

1. DESIGNATION PROCEDURES

The following is the normal chronology of an initial designation.

- a. The inmate is sentenced.
- b. The Clerk of the Court transmits the Judgment and Commitment Order (old law cases) or Judgment in a Criminal Case (new law cases) to the USMS.
- c. The USMS makes a request to the DSCC advising that the inmate is now ready for designation to a facility.
- d. If it has not already been provided, DSCC staff must contact the necessary officials (USPO or USMS) for the following: two copies of the PSR, a copy of the Judgment, to include the SOR, and the Individual Custody and Detention Report (USM-129).

If the SOR is not provided with the Judgment, DSCC staff will make a reasonable effort to obtain a copy by contacting the Court or USPO. If no SOR was prepared for the case or cannot be obtained, DSCC staff will note this in the "Remarks" section of the BP-337 and proceed with the designation process. These procedures will ensure the Bureau is following the intentions of the Court when designating a facility, as the SOR may contain information which overrides the PSR and may affect scoring decisions.

Based on a review of the data, DSCC staff will determine whether a non-federal facility should be designated. If a PSR has not been prepared, DSCC staff will complete a National Crime

Information Center (NCIC) and National Law Enforcement Telecommunication System (NLETS) criminal history check to obtain background information. DSCC staff will then load appropriate information on the SENTRY Update Security Designation screen with a notation that no PSR was available.

DSCC staff will contact the USPO and request that a Postsentence Investigation Report be prepared, and forwarded to the designated facility. DSCC staff will document this contact on the SENTRY Update Security Designation Screen.

Frequently, in cases involving Reentry after Deportation, Presentence/Postsentence Investigation Reports are not prepared. In those particular cases, a Magistrate Information Sheet may be used. A Magistrate Information Sheet is a document prepared by U.S. law enforcement officials. This document contains a summary of the facts related to the defendant's arrest and prior criminal/personal history. This information is primarily obtained through the arresting officer's report, the FBI Rap Sheet and an interview with the defendant.

If more than six months has elapsed since the PSR was prepared, DSCC staff will contact the USPO to determine if there is any new or significant information that should be considered. If the offender was a study case before final sentencing, DSCC staff will take into consideration the results of that study in completing the designation request. The result of the study may be obtained from a PSR, a summary report, or any other information available.

If offense or background information is not available prior to designation, an inmate must be designated to at least a Low security level institution. When information is obtained, the institution may request redesignation, if appropriate.

e. The DSCC uses classification material and SENTRY to determine if Central Inmate Monitoring (CIM) precautions need to be taken. This includes a name search to determine if the offender was previously confined under the current or previous register number. If new to the Bureau, the inmate must be loaded into SENTRY and "admitted" to the DSCC "facility," with any appropriate CIM assignment(s) entered. DSCC staff will identify the documents used to support CIM assignments and forward the documents to the designated institution.

f. DSCC staff will complete and enter into SENTRY an Inmate Load and Security Designation form (BP-337) on all cases with terms exceeding 30 days. The DSCC staff member loading the data has the discretion to complete a hard copy version or may enter the information directly into SENTRY.

DSCC staff must determine if there is a break in custody when the inmate is transferring to federal custody after service of a state sentence.

The DSCC usually has access to this type of information for jail credit purposes.

If there is no physical release from custody, DSCC staff will consider the state offense as part of the current term of confinement for classification purposes and will not assign any history points for the state offense.

g. Each work day, DSCC Designation Officers determine which cases require designation by displaying a SENTRY Daily Log for a listing of those cases entered the previous day (also to include weekends and holidays).

The Designator displays the Initial Designation Data screen and follows the prompts on the screen. This will lead the Designator through a display of the "CIM Clearance and Separatee Data" screen and "Update Security Designation" screen.

A list of the appropriate security level facilities will appear in order of proximity to the inmate's legal residence (based on mileage calculated by SENTRY). The final screen in this series requires that the reason for designation be entered, as well as any clearance remarks by the DSCC Designator.

The objective of inmate classification is to place each inmate in the most appropriate facility for service of sentence.

To accomplish this, the Designator must consider all relevant information regarding the inmate.

In accordance with Rule 38(b) of the Federal Rules of Criminal Procedure, when the court of conviction recommends that the inmate be retained in a place of confinement which will allow the inmate to participate in the preparation of the appeal, the Bureau will make every effort to place the inmate in such a facility. If a reason exists for not placing the inmate in that facility, the matter is called to the attention of the court and an attempt is made to arrive at an acceptable place of confinement.

h. SENTRY provides information on the capacity and inmate population in each institution. Specifically, for each facility and each Designation Facility (DFCL), SENTRY provides the Rated Capacity, the Designation Capacity, and the percentage of each that the facility or DFCL currently houses.

- The Rated Capacity is a measure of the capacity for which each DFCL was designed.
- The Designation Capacity is the equitable proportion of the inmates in a particular security level that each

designation facility having that security level should house.

The Designation Capacity of each DFCL is based on the rated capacities and population totals of all the DFCLs that have the same security level. The Rated Capacity and Designation Capacity for a facility are calculated as the total Rated Capacity and Designation Capacity of all the DFCLs that exist within that facility.

Designators will ordinarily use the Designation Capacity as a guide for maintaining population balance and an equitable distribution of inmates. However, for newly activating institutions, Designators may designate that institution for a percentage of initial designations.

i. The Designator assigns a facility, which may include a privately managed facility, and will make every effort to accommodate recommendations from the courts, ie. RDAP, locality, etc.

j. Upon completion of the initial designation by the DSCC Designator or Central Office Medical Designator, staff in the following areas will make note of the designation by monitoring SENTRY Destination Daily Logs:

- (1) The receiving institution;
- (2) The federal facility (MCC, Detention Center, etc.) holding the inmate being designated;
- (3) The U.S. Marshals Prisoner Transportation Division in Kansas City, Kansas; and,
- (4) The DSCC staff in cases where a medical/mental health inmate has been referred to OMDT.

DSCC staff will inform the USMS who has custody of the inmate of the designation by whatever means is appropriate.

If the inmate is a former study case, DSCC staff must also inform, via GroupWise, the Warden of the institution that completed the study of the designation. This alerts that facility to forward the Inmate Central File and other records to the institution designated.

If there is a secondary designation (e.g., Parole, Special Parole Term, Mandatory Release Violator Hearing, or following medical treatment), DSCC staff (or Central Office Medical Designator for

medical cases) will notify the Warden of the secondary institution. This will alert the secondary institution that the inmate is designated and will be transported after the program or medical treatment is completed. No other designation notation is needed for a secondary designation.

k. When a designation is made, DSCC staff will forward all supporting documents to the designated institution within two working days. If DSCC staff believe that the inmate will arrive at the institution in less than five calendar days, the supporting documentation will be sent to the institution by overnight mail, facsimile, or electronically, within one working day of the designation.

l. The Case Management Coordinator (CMC) will monitor all pending arrivals at that facility. However, if the institution has separate DFCLs for specialized programs (i.e., RDAP, Sex Offender Treatment Program, Life Connections, etc.) or for a satellite camp, then the CMC may delegate this responsibility to staff assigned to those specialized programs or populations. Staff will monitor the Daily Log for that facility, and will print a hard copy of each designation and maintain a copy on file for 120 calendar days. In certain facilities other methods may be just as effective in monitoring pending arrivals.

For example, institutions with a large holdover or pretrial population can be monitored more effectively by running a daily pipeline roster filtering out all "A-HLD"s and "A-PRE"s.

Staff will also monitor the arrival of classification material, and if such material has not arrived within 10 calendar days following the designation, the DSCC will be contacted to determine the status of that material. Upon arrival of the classification material, the CMC, or designee, will review that material and verify the scoring of the Inmate Load and Security Designation form (BP-337). If a scoring issue and/or error is discovered, the CMC will contact the DSCC Administrator via GroupWise. The CMC may need to fax certain pages of the Presentence Investigation Report to the DSCC so the case can be appropriately reviewed. If the CMC and DSCC agree that an error has been made, the error will be corrected by the DSCC. If the CMC and DSCC do not agree that an error has been made, the Central Office, Correctional Programs Administrator, will make the final determination.

The DSCC will also be advised of any non-scoring errors or concerns. In either circumstance, if the correction requires a new designation, the DSCC will make any necessary changes and will enter a new designation into SENTRY. The DSCC will then notify the appropriate USMS office(s) of the designation change.

If the original designation is changed, the CMC will forward the classification material to the newly designated institution.

m. The CMC has oversight responsibilities for monitoring the timely arrival of a newly designated inmate. If an inmate serving a term of one year or more has not arrived at the designated institution within 120 calendar days from the date of the designation, or if an inmate serving a term of less than one year has not arrived after 30 calendar days, staff will use SENTRY to determine the inmate's current location:

(1) If the inmate is in a Bureau facility, staff will contact that facility to expedite movement or ascertain the reason for delay, and will verify whether the designation continues to be valid; and,

(2) If the inmate is not in a Bureau facility, staff will contact the DSCC. Upon notification, DSCC staff will contact the appropriate authorities and ascertain why the inmate has not arrived at the designated institution. If DSCC staff decides the designation is no longer valid, the DSCC will cancel the original designation.

If the designation is canceled, the packet will be returned to the DSCC, who then will return the documentation to the originating agency. Prior to canceling a designation, the DSCC will enter a comment on the "CIM Clearance and Separatee Data" screen to document the reason(s) for this action. This comment will be the only retrievable documentation available to answer future questions regarding the processing of the case. It may be necessary to administratively admit the inmate in order to enter the comment. The DSCC will also delete the associated DST assignment.

Staff will maintain records of their efforts to monitor designations. These records will be maintained for a period of 120 calendar days from the date of initial designation.

n. The release to the general public of an inmate's designation or redesignation information is prohibited, for security reasons, until the inmate has arrived at the designated facility. An inmate confined in a Bureau facility however, may be advised of the destination but will not be advised of the date or time of the transfer. However, caution should be exercised in advising inmates of their destination. The Warden may define cases where the designation will not be disclosed to the inmate. Officials such as Judges and members of Congress may be advised of designations in response to official inquiries for their official use.

2. NON-ROUTINE DESIGNATION PROCEDURES

In certain cases, non-routine designation procedures for new commitments are required. Listed below are specific examples of non-routine designations.

a. **Study Cases.** The DSCC will complete an Inmate Load and Security Designation form (BP-337) and enter it into SENTRY. The DSCC will then notify the Central Office Medical Designator via GroupWise requesting designation. The Central Office Medical Designator will designate an appropriate institution for the study. After completion of the study and final sentencing by the court, the DSCC will enter a new Inmate Load and Security Designation form (BP-337) into SENTRY, based on the actual sentence imposed or other new information.

b. **Medical or Mental Health.** The DSCC is responsible for receiving and evaluating information pertaining to an initial designation. DSCC staff must attempt to ascertain whether an inmate requires medical or mental health evaluation or treatment. This information is ordinarily obtained from the Presentence Investigation Report or other source documents. If medical or mental health concerns are apparent, DSCC staff will provide comments in the "Remarks" section of the BP-337 and enter Y (yes) in the OMDT REF item. DSCC staff will fax portions of the Presentence Investigation Report pertaining to the medical or mental health concerns, and the Judgment in a Criminal Case, if it includes any judicial recommendations, to the Central Office Medical Designator.

Upon review of the daily log for W DESIG M cases, the Central Office Medical Designator will access the Inmate Load and Security Designation form (BP-337) in SENTRY and make a designation based on the available information, ordinarily within three working days. If the Central Office Medical Designator determines there are no medical or mental health concerns affecting placement, the DSCC will be advised. The DSCC will then complete the designation to an appropriate institution.

Only the OMDT will make designations for study cases or for cases requiring medical or psychiatric evaluation or treatment. Designation may be made to any Bureau facility having resources to meet the inmate's needs. The Central Office Medical Designator will ensure that whenever a designation is made to an DFCL inconsistent with the inmate's security level, the appropriate Management Variable is entered.

Administrative facilities are excluded from this requirement.

c. **Military Prisoners.** The Bureau cooperates with the Security, Force Protection and Law Enforcement Division of the Armed Services for the transfer of military prisoners into the Bureau's custody. These cases are coordinated through the DSCC, in accordance with the provisions contained in Chapter 7, Section 17(d).

d. **Parole, Mandatory Release or Special Parole Term Violator Hearing.** For designation purposes, the U.S. Parole Commission (USPC) provides the revocation packet and a copy of the alleged violator's Presentence Investigation Report to the DSCC. The DSCC will complete an initial designation to a violator hearing site, and a secondary designation to a post-hearing institution for service of the violator term. The Security Designation Data screen will indicate the inmate is to be housed as a holdover at the violator hearing site.

Once the designation has been completed, the DSCC will notify the U.S. Marshals Office of the designated institution, and mail the violator packet to that institution. The USPC will receive notification via Groupwise.

If after the hearing, new information causes a change in the secondary designation (i.e., short-term parole date), institution staff will contact the DSCC for appropriate action.

- In cases where the projected release date (PRD) is between 60 to 120 days from the date of hearing, the DSCC will consider changing the secondary designation to the nearest appropriate facility.
- In cases where the PRD is 60 days or less from the date of hearing, hearing facility staff will consider having the inmate remain at the hearing facility for release processing purposes.
- If a change in designation is not necessary, institution staff may process the inmate's transfer to the secondary designation.

Procedures for violators requiring medical treatment are referenced in Chapters 3 and 7. Once the information is reviewed and evaluated by the DSCC, and it is determined that medical or psychiatric treatment is required, the request for designation will be entered into SENTRY and referred to the Central Office Medical Designator for designation. The DSCC will notify the appropriate USMS Office of the inmate's designated institution, and mail the violator packet to that institution. The USPC will receive notification via LAN.

Local revocation hearings will be conducted at a site determined by the USPC, normally within commuting distance of where the alleged violation occurred. The USPC may request, in writing, to the DSCC Administrator that an alleged violator be moved to a Bureau institution. Violators who have received their local revocation hearing will not be transported until the USPC Notice of Action has been received and a designation has been determined. In some instances, violators who are granted a short-term release date should be considered for placement in a contract facility.

e. **Long-term Detainees.** The Detention Services Branch (DSB), Correctional Programs Division, Central Office, is responsible for the initial designation of long-term detainees. Requests for placement into the BOP from the U.S. Immigration and Customs Enforcement (ICE) are sent directly to DSB, where they are completed. If a medical or mental health placement is needed, DSB will refer it to the Central Office Medical Designator.

Long-term detainees are no longer serving a sentence but their detention is indeterminate and they will not, in all probability, be repatriated to their home country.

Long-term detainees are from countries, such as Cuba, that refuse to accept their return from the U.S. government. The Detention Services Branch, Correctional Programs Division, will advise when changes in applicable countries occur. This does not include citizens from countries that take a significant amount of time to accept its citizens. Travel orders can be obtained and they are eventually returned. ICE requests the placement of long-term detainees into the BOP and they are ordinarily designated into a general population.

Long-term detainees include:

- Mariel Cubans, detainees who entered the United States during the Mariel boatlift between April 15, 1980 and October 31, 1980;
- Cubans who entered the United States from other countries, or from Cuba other than during the Mariel boatlift; and,
- Detainees from countries that ICE has identified that refuse to receive its citizens.

Designation procedures for long-term detainees are unique because the detainees are not serving a sentence. Refer to the current

Program Statement Maribel Cuban Detainees for the designation procedures.

3. DESIGNATIONS TO NON-FEDERAL FACILITIES

The DSCC may designate a federal inmate to a non-federal facility in accordance with the criteria below. An updated Security Designation form (BP-337) will be completed and entered into SENTRY for any sentence exceeding 30 days. When the USMS takes custody of an inmate from state or local custody to begin serving a federal sentence, the same procedures for new commitments will be followed.

When designating an inmate to a non-federal facility for an inmate, Designators shall consider the inmate's religious beliefs, if known as one of the factors in making a designation decision. If possible, a non-federal facility where the inmate's religious beliefs can be accommodated will be designated. If necessary, Designators may consult with Central Office chaplaincy staff in making this designation decision.

4. TYPES OF COMMITMENTS

a. **Juvenile Commitments.** All inmates committed under the Juvenile Justice and Delinquency Prevention Act (JJDNA) and all inmates under the age of 18 will be designated and housed in accordance with the requirements of Program Statement Juvenile Delinquents, Juvenile Justice and Delinquency Prevention Act.

The CCM will complete a BP-337 for juvenile offenders housed in contract juvenile facilities; however, the CCM does not need to complete the BP-338 while the juvenile is housed there unless it is helpful to do so.

b. **Jail Commitments.** When funds and appropriate jail space are available, the DSCC may designate a contract jail or detention facility for an inmate who is generally sentenced to one year or less. If funds and appropriate jail space are not available or if an inmate has special needs, a federal institution will be designated through the DSCC.

Prior to placement, DSCC staff must determine whether any PSF(s) or other circumstances would contradict a jail designation. If so, the lowest security level dictated by the applicable PSF must be satisfied.

However, such designations should also take into consideration underpopulated Bureau facilities prior to placement in a contract facility.

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c. **Youth Corrections Act (YCA)/District of Columbia Youth Rehabilitation Act (DCYRA) Offenders.** Although the YCA statutes were repealed effective October 12, 1984 (see 18 U.S.C. §§ 5005 through 5026 (repealed)), an offender originally committed under these statutes could be returned to custody as a parole violator.

Ordinarily, DCYRA inmates will not be initially designated to non-federal facilities.

d. **State Prisoners.** 18 U.S.C. § 5003 enables the Director, Bureau of Prisons, to establish contracts to accept state prisoners for boarding in federal institutions. The term "State" as used in this section includes any state, territory, or possession of the United States. The statute does not permit the Bureau to contract placement of state prisoners in third party custody. This includes CCC placements.

When there is a compelling reason for placing a state prisoner in a non-federal facility, institution staff will contact the DSCC Administrator, who may suggest to officials of the state that they may want to make their own direct placement in a non-federal facility.

Once an inmate is accepted into Bureau custody, occasionally, there may be a reason to return the inmate to the original state. In this instance, institutional staff will contact the DSCC Administrator. If the DSCC Administrator determines that it would be appropriate for the inmate to be returned, they will contact state officials.

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INMATE LOAD AND SECURITY DESIGNATION FORM INSTRUCTIONS (BP-337)
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INMATE LOAD DATA

The Inmate Load Data section (Items 1 to 25) of the Inmate Load and Security Designation form (BP-337) records the physical and demographic information of inmates entered into SENTRY (the Bureau of Prisons' on-line database). In practice, inmates are entered into SENTRY whether or not the inmate's security level is scored (e.g., pre-trial detainees, material witnesses, etc.). Therefore, when the initial security designation data is entered into SENTRY it is essential that the load data is compared to the information contained in the Presentence Investigation Report (PSR), and that the information is updated or reconciled as appropriate.

1. REGISTER NUMBER			
2. LAST NAME		3. FIRST NAME	
4. MIDDLE		5. SUFFIX	
6. RACE	7. SEX	8. ETHNIC ORIGIN	9. DATE OF BIRTH
10. OFFENSE/SENTENCE			
11. FBI NUMBER		12. SSN NUMBER	
13. STATE OF BIRTH		14. OR COUNTRY OF BIRTH	
15. CITIZENSHIP			
16. ADDRESS-STREET			
17. CITY		18. STATE	
19. ZIP		20. OR FOREIGN COUNTRY	
21. HEIGHT: FT ____ IN ____		22. WEIGHT:	
23. HAIR COLOR		24. EYE COLOR	
25. ARS ASSIGNMENT			

- REGISTER NUMBER.** The U.S. Marshals Service (USM) assigns an eight-digit register number to each inmate with the last three digits denoting the U.S. Marshals' judicial code. The format is five digits, hyphen, three digits.
- LAST NAME.** Twenty-four spaces are provided for the inmate's last name, which must match the name on the Judgment. The first character must be a letter. Each subsequent character must be a letter, space, hyphen, or apostrophe.
- FIRST NAME.** Twelve spaces are provided for the inmate's first name.

NOTE: Only the inmate's committed name (as it appears in

the Judgment) will be entered on the "Load Inmate" transaction. All other names (e.g., true name, aliases, nicknames, maiden name, etc.) will be entered into SENTRY using the "Update Nicknames and Aliases" transaction.

4. **MIDDLE.** Eight spaces are provided for the inmate's middle name.
5. **SUFFIX.** Three spaces are provided for any name suffixes (i.e., Jr., Sr., II). Suffix codes are found in the Name Suffix Code section of the SENTRY General Use Technical Reference Manual (TRM).
6. **RACE.** Standards for the Classification of Federal Data on Race and Ethnicity are set by the Office of Management and Budget. Enter the appropriate code:

<u>CODE</u>	<u>RACE</u>	<u>DEFINITION</u>
A	Asian	A person having origins in any of the Pacific Islands or any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
B	Black or African American	A person having origins in any of the black racial groups of Africa.
I	American Indian or Alaska Native	A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
W	White	A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

7. **SEX.** Enter M = Male or F = Female.
8. **ETHNIC ORIGIN.** Enter the appropriate code.

<u>CODE</u>	<u>ETHNIC ORIGIN</u>	<u>DEFINITION</u>
H	Hispanic or Latino	A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
O	Not Hispanic or Latino	A person who does not meet the above definition.

9. **DATE OF BIRTH.** Ten spaces are provided for the inmate's birth date (MM-DD-YYYY); (e.g., July 2, 1981 = 07-02-1981). If the inmate's birth date is unknown or not available, enter 01-01-1800.
10. **OFFENSE/SENTENCE.** The offense(s), sentence imposed, and docket number (as specified in the Judgment) should be entered in the space provided. Additionally, if the inmate is admitted to another SENTRY facility, care should be taken to preserve existing information.
11. **FBI NUMBER.** Nine spaces are provided for the Federal Bureau of Investigation (FBI) number. The FBI number can be any combination of letters and numbers and must be entered without spaces or dashes. It cannot duplicate an existing FBI number in SENTRY. This field must be left blank if the FBI number is unknown at the time the inmate is loaded.
12. **SOCIAL SECURITY NUMBER (SSN).** Nine spaces are provided for the inmate's SSN. The number must be entered without dashes or spaces. It cannot duplicate an existing SSN in SENTRY. If the SSN is unknown, or the inmate has never been issued a SSN this field must be left blank. In cases where the inmate will not be issued a SSN (i.e., illegal aliens) a back slash may be entered.
13. **STATE OF BIRTH.** Two spaces are provided for the state code for the state in which the inmate was born. If entered, it must be a valid code from the State and Possession Code Table in the SENTRY General Use TRM.
14. **COUNTRY OF BIRTH.** If entered, it must be a valid code from the Country Code Table in the SENTRY General Use TRM.

NOTE: SENTRY will not allow "US" to be entered if a "state of birth" is entered (Item 13 above).

15. **CITIZENSHIP.** Enter the country code that corresponds to the inmate's citizenship. This must be a valid code from the Country Code Table in the SENTRY General Use TRM. Do not rely on the inmate's current place of residence to determine citizenship. Special emphasis must be placed on the accuracy of citizenship at the time of the inmate's admission.
16. **ADDRESS - STREET.** At least twenty-eight spaces are provided for the inmate's street number and name as listed in the PSR as "legal address." Enter any combination of alphanumeric characters.
17. **CITY.** Fifteen spaces are provided for the inmate's city of residence as listed in the PSR as "legal address." If entered, a state or foreign country must be entered.
18. **STATE.** Two spaces are provided for the state code. If entered, it must be a valid state code found under State Possession Code, SENTRY General Use TRM. Enter country code under Item 20 if residence is not in the United States or one of its territories or commonwealths.
19. **ZIP CODE.** Five spaces are provided for the zip code. It must be entered when a state code has been entered. If not available, the city, state, and zip code of the USMS Office assigning the register number will be entered. An accurate zip code is important because it is used by SENTRY to determine mileage between the inmate's legal residence and designated institution.
20. **FOREIGN COUNTRY.** Two spaces are provided for the country code. If entered, it must be a valid country code from the Country Code Table of the SENTRY General Use TRM. "US" may not be entered as the country code. This field must be completed if a state or zip code is not entered in the address field (see Items 18 & 19 above).
21. **HEIGHT.** Height must be entered in a measurement of feet and inches. Values in feet (FT) must be 1 through 9. Values in inches (IN) must be 00 through 11.
22. **WEIGHT.** Weight values must be 001-999 and represent pounds.
23. **HAIR.** Two spaces are provided for the color code. If entered, it must be a valid code found under the Hair Color Code, SENTRY General Use TRM.

This item allows for the subtraction of three points from the Security Point Total, Item 15, when the Judgment indicates the inmate was allowed to voluntarily surrender. For purposes of this item, voluntary surrender means the inmate was not escorted by a law enforcement officer to either the U.S. Marshals Office or the place of confinement. Additionally, this item applies only to post-sentencing voluntary surrender, and does not include cases where the inmate surrendered to the U.S. Marshals on the same day as sentencing. Voluntary Surrender Credit may only be

applied to the initial term of confinement; it may not be applied to any subsequent Supervised Release, Mandatory Release or parole Violation return to custody.

5a. **VOLUNTARY SURRENDER DATE.** If the court has provided for voluntary surrender, enter the date of the voluntary surrender in this block. If the court provided for voluntary surrender but did not provide a specific date for the surrender, the DSCC will contact the court to establish a mutually agreeable date.

NOTE: In cases where the court allows the inmate to voluntarily surrender but the inmate will not receive (-3) points on this item the date will still be entered on this item.

5b. **VOLUNTARY SURRENDER LOCATION.** The DSCC will note whether the inmate is to voluntarily surrender to the USMS or to the designated institution.

6. MONTHS TO RELEASE

6. MONTHS TO RELEASE _____

This item reflects the estimated number of months the inmate is expected to be incarcerated. Consecutive federal sentences will be added together for classification purposes. Federal sentences may have different beginning dates, based on the Judgment Order. There may even be a computation in SENTRY with a beginning date in the future. Based on the inmate's sentence(s), enter the total number of months remaining, less 15% (for sentences over 12 months), and credit for any jail time served. This item is not figured into the security point total but impacts the Sentence Length Public Safety Factor.

Example: An adult convicted of Breaking and Entering under the Sentence Reform Act is sentenced to eight years. The expected length of incarceration is (96 months x 85% = 81.6 months). Round to the nearest whole number to get 82 and subtract any jail time credit (180 days) = 76 months to release.

NOTE: Enter 540 months for death penalty cases, life sentences, and Parolable life sentences for which a parole date has not been established.

7. SEVERITY OF CURRENT OFFENSE

7. SEVERITY OF CURRENT OFFENSE	0 = LOWEST 1 = LOW MODERATE	3 = MODERATE 5 = HIGH	7 = GREATEST	
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Enter the appropriate number of points that reflect the most severe documented instant offense behavior regardless of the conviction offense. For multiple offenses, the highest score will be used in scoring the current offense. Staff will consider the offense behavior on all sentences, including federal sentences that have a future beginning date or a previous D.C. or state sentence if there was no physical release from custody.

NOTE: This will require DSCC staff to make reasonable efforts to obtain documentation.

Severity is determined by using the Offense Severity Scale (Appendix A).

Example: According to the PSR, the individual was involved in an Assault With Serious Injury (Greatest severity level) but pled guilty to a Simple Assault (Moderate severity level). Assign the points on the basis of the more severe documented behavior, i.e., assign 7 points (Greatest severity level).

In determining "Severity of Current Offense" staff must review the Statement of Reasons (SOR) and ensure the information provided is appropriately used in classifying the inmate.

Example: According to the PSR the individual was involved in a drug conspiracy responsible for distribution of 31 grams of Cocaine Base "Crack", but was individually only responsible for 2 grams, he/she would be scored as Moderate Severity for this item. However, the SOR, indicates the Sentencing Judge found the individual responsible for less than 1 gram; therefore, the appropriate scoring should be Low Moderate severity.

- PROCEDURES FOR PAROLE, MANDATORY RELEASE, SPECIAL PAROLE TERM, OR SUPERVISED RELEASE VIOLATORS**

If the violation was the result of new criminal conduct, regardless of conviction status, use the new criminal conduct for scoring "Severity of Current Offense" (see Appendix A). If the violation behavior was a technical violation, score the "Severity of Current Offense" as Low Moderate.

The original offense behavior which occurred prior to the violation is considered past behavior and is not used in determining "Severity of Current Offense."

• **PROCEDURES FOR PROBATION VIOLATORS**

The original offense behavior that resulted in probation should be used for scoring "Severity of Current Offense" (see Appendix A). However, if the new criminal conduct (violation behavior) is more severe than the original offense behavior, then use this behavior for scoring "Severity of Current Offense."

The most severe documented behavior between the original offense and the violation behavior will be used for scoring "Severity of Current Offense."

8. CRIMINAL HISTORY SCORE

8. CRIMINAL HISTORY SCORE	0 = 0-1 2 = 2-3	4 = 4-6 6 = 7-9	8 = 10-12 10 = 13 +	
8a. SOURCE OF DOCUMENTED - PRESENTENCE INVESTIGATION REPORT CRIMINAL HISTORY _____ - NCIC III				

Enter the appropriate number of Criminal History Points (CHP). SENTRY will automatically convert the CHP to the Bureau's Criminal History Score (CHS).

The CHS is derived from the US Sentencing Guidelines Criminal History Points, as reflected in the final judgment and the SOR. If not found in either the Judgment or SOR, use the points assessed by the USPO in the PSR.

In some cases the Criminal History Points are not available (i.e., when the PSR is waived, on offenses committed prior to November 1, 1987, state cases, and military and D.C. Code offenders). Under these circumstances the Criminal History Score will be derived from the criminal history documented in the NCIC III Report according to the following procedures:

- (a) Add 3 points for each prior sentence of imprisonment exceeding one year and one month;
- (b) Add 2 points for each prior sentence of imprisonment of at least sixty days not counted in (a);
- (c) Add 1 point for each prior conviction not counted in (a) or (b), up to a total of 4 points for this item; and,

- (d) Add 2 points if the instant offense is a revocation accompanied by a new state or federal conviction, or if the instant offense occurred while under federal supervision including incarceration, probation, parole or supervised release.

The documentation used to assess the Criminal History Points must be provided as specified in all cases.

9. HISTORY OF VIOLENCE

9. HISTORY OF VIOLENCE	NONE	>15 YEARS	10-15 YEARS	5-10 YEARS	<5 YEARS	
MINOR	0	1	1	3	5	
SERIOUS	0	2	4	6	7	

Enter the appropriate number of points that reflect any history of violence, considering only those acts for which there are documented findings of guilt (i.e., DHO, Court, Parole, Mandatory Release, or Supervised Release Violation). This item includes the individual's entire background of criminal violence, excluding the current term of confinement.

Exception: Any institution disciplinary hearing (UDC or DHO) finding that a prohibited act was committed during the current term of confinement will be scored as a history item. DSCC staff must review the Chronological Disciplinary Record (CDR) for inmates who were previously housed in a federal institution or contract facility. Any violent act(s) reflected on the CDR must be scored as a history item. State disciplinary findings must be scored unless there is documentation that the state disciplinary proceedings did not afford due process protection to the inmate.

Severity of violence is determined by the offense behavior regardless of the conviction/finding of guilt offense. History of Violence points combine both seriousness and recency of prior violent incidents to assess the propensity for future violence. Therefore, if there is more than one incident of violence, score the combination of seriousness and recency that yields the highest point score. Prior periods of incarceration will be considered a "history" item if the inmate was physically released from custody and then returned to serve either a violation or a new sentence. In determining time frames, use the date of the documented behavior. Documented information from a juvenile, Youth Corrections Act (YCA) or District of Columbia Youth Rehabilitation Act (DCYRA) adjudication can be used unless the record has been expunged or vacated.

Minor History of Violence - Aggressive or intimidating behavior which is not likely to cause serious bodily harm or death (e.g.,

simple assault, fights, domestic disputes, etc.) There must be a finding of guilt.

Serious History of Violence - Aggressive or intimidating behavior which is likely to cause serious bodily harm or death (e.g., aggravated assault, domestic violence, intimidation involving a weapon, incidents involving arson or explosives, rape, etc.).

There must be a finding of guilt.

Example: If an offender was found guilty of homicide 20 years ago and a simple assault 3 years ago, assign 5 points for the simple assault. Or in another case, the offender had guilty findings for homicide 12 years ago; aggravated assault 8 years ago; and fighting 2 years ago, score 6 points for the aggravated assault 8 years ago.

NOTE: Attempted suicide, self-mutilation and possession of weapons are not applicable behaviors for History of Violence scoring. In addition, verbal threats (such as Code 203- Threatening Bodily Harm) are to be viewed as minor violence.

10. HISTORY OF ESCAPE OR ATTEMPTS

10. HISTORY OF ESCAPE OR ATTEMPTS	MINOR SERIOUS	NONE 0 0	>15 YEARS 1 3 (S)	10-15 YEARS 1 3 (S)	5-10 YEARS 2 3 (S)	<5 YEARS 3 3 (S)	
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Enter the appropriate number of points that reflect the escape history of the individual considering only those acts for which there are documented findings of guilt (i.e., DHO, Court, Parole, Mandatory Release, or Supervised Release Violation).

Escape history includes the individual's entire background of escapes or attempts to escape from confinement, or absconding from community supervision, excluding the current term of confinement.

Exception: Any institution disciplinary hearing (UDC or DHO) finding that a prohibited act was committed during the current term of confinement will be scored as a history item. DSCC staff must review the Chronological Disciplinary Record (CDR) for inmates who were previously housed in a federal institution or contract facility. Any escape(s) or attempt(s) reflected on the CDR must be scored as a history item. State disciplinary findings are to be scored unless there is documentation that the state disciplinary proceedings did not afford due process protection to the inmate.

Fleeing or Eluding Arrest, Failure to Appear for traffic violations, Absconding, runaways from foster homes and similar

behavior should not to be scored under the Escape History item, even if clearly documented, but should be considered on a case- by-case basis under the Management Variable "Greater Security." Failure to Appear or Flight to Avoid Prosecution for any offense however, must be counted when there is a documented finding of guilt.

In determining time frames, use the date of the documented occurrence. Documented information from a juvenile, YCA, or DCYRA adjudication can be used unless the record has been expunged or vacated.

Minor History of Escape - An escape from an open institution or program (e.g., minimum security facility, CCC, furlough) not involving any actual or threat of violence. Also includes military AWOL, Bail Reform Act, Flight to Avoid Prosecution, and Absconding from Community Supervision. There must be a finding of guilt except as previously noted.

Serious History of Escape - An escape from secure custody with or without threat of violence. Also includes escapes from an open facility or program with actual threat of violence. There must be a finding of guilt. S = 3 points and requires application of PSF L.

11. TYPE OF DETAINER

11. TYPE OF DETAINER	0 = NONE 1 = LOWEST/LOW MODERATE	3 = MODERATE 5 = HIGH	7 = GREATEST	
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Enter the appropriate number of points that reflect detainer status. Refer to the Offense Severity Scale, Appendix A. Determination is based on the offense of the most serious detainer.

- If there is a pending charge, points based on the documented behavior are assigned on the "Type of Detainer" item. If the pending charges or detainer involve a probation violation, use the most severe documented behavior in the original offense as the basis for assigning points in scoring the detainer.

If law enforcement officials indicate a firm intent to lodge a detainer, consider it lodged. Score a concurrent state sentence as a detainer only if it is expected that the state sentence will exceed the federal sentence. However, score consecutive state sentences, lodged state detainers, and/or state parole violation terms/warrants as detainers.

- Consecutive federal sentences are ordinarily not lodged as detainers because federal sentences are computed as they are received. If there is more than one sentence, the most severe offense will be used as "Severity of Current Offense."

Example: For an individual with two detainers for Violation of Firearms Act (Moderate severity level) and one for Extortion (High severity level), use High = 5 points and enter "5".

- No points will be awarded for U.S. Parole Commission warrants (adjudicated or unadjudicated). However, the original offense behavior will be factored into the criminal history points and the violation behavior (including new offense behavior) will be scored as the instant offense.
- No points will be awarded for ICE detainers. However, each case will be carefully reviewed to determine whether the PSF for Deportable Alien is applicable.

12. AGE

12. AGE	0 = 55 and over 2 = 36 through 54	4 = 25 through 35 8 = 24 or less	
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SENTRY will automatically enter the appropriate number of points based on the inmate's date of birth. Staff do not have to manually enter an offender's age or points on the BP-337. If the offenders date of birth is unknown, SENTRY will default to a score of 4 points.

13. EDUCATION LEVEL

13. EDUCATION LEVEL	0 = Verified High School Degree or GED 1 = Enrolled in and making satisfactory progress in GED Program 2 = No verified High School Degree/GED and not participating in GED Program	
13a. HIGHEST GRADE COMPLETED	_____	

Enter the appropriate number of points that reflect the inmate's verified education level at the time of designation.

In addition to the points assigned for the education level, the highest grade completed (HGC) will also be recorded on the BP-

337. For example, an inmate who began, but did not complete the 7th grade will be given a 6 in the HGC field. Similarly, a GED

will be given a 12, a college graduate a 16, a Master's degree an 18, and a Ph.D. a 21 (the maximum allowed) in the HGC field.

The value entered for the HGC should, unless missing, be consistent with the points assessed for the inmates education level. If missing, enter a "U" for unknown.

14. DRUG/ALCOHOL ABUSE

14. DRUG/ALCOHOL ABUSE	0 = Never/ >5 Years	1 = <5 Years	
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Enter the appropriate number of points that reflect drug or alcohol abuse by the inmate. Examples of drug or alcohol abuse include: a conviction of a drug or alcohol related offense, a parole or probation violation based on drug or alcohol abuse, positive drug test, a DUI, detoxification, etc. Absent any information similar to the above, an inmate's self-report is sufficient to score this item. If this information is unknown enter a "U" and the item will be scored as zero.

15. SECURITY POINT TOTAL

15. SECURITY POINT TOTAL	
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Enter the sum of Items 5 through 14.

16. PUBLIC SAFETY FACTORS

16. PUBLIC SAFETY FACTORS	A -NONE B -DISRUPTIVE GROUP (males only) C -GREATEST SEVERITY OFFENSE (males only) F -SEX OFFENDER G -THREAT TO GOVERNMENT OFFICIALS H -DEPORTABLE ALIEN	I -SENTENCE LENGTH (males only) K -VIOLENT BEHAVIOR (females only) L -SERIOUS ESCAPE M -PRISON DISTURBANCE N -JUVENILE VIOLENCE O -SERIOUS TELEPHONE ABUSE	

See Chapter 5, pages 7-13 for a description of Public Safety Factors and their application.

17. REMARKS

17. REMARKS

A brief explanation of the current offense(s) is required in the "Remarks" section. Similarly, Pre-Sentence Investigation Report information relevant to other scoring items that may have an impact on the designation process or the transportation of the inmate (e.g., medical or psychiatric information, or arrest behavior with no conviction) must also be noted in this section. Refer to Appendix C, Standard Abbreviations/Terms. Also, the

individual scoring the case will enter his or her initials at the end of the "Remarks" section.

18. OMDT REFERRAL

18. OMDT REFERRAL (YES/NO) _____

The Medical Designator, Office of Medical Designations Transportation (OMDT), must review all cases in which there is a physical or mental health concern. Enter "Y" (yes) or N (no) in this category. The response will determine which daily log will reflect the designation information.

DESIGNATION AND SENTENCE COMPUTATION CENTER ACTION - INITIAL DESIGNATION

It is extremely important for Designators to communicate on a regular basis to ensure that designation decisions are consistent. The Correctional Programs Division encourages the need for communication and consistency to all Designators.

1. **FACILITY DESIGNATED.** Enter the mnemonic code for the institution designated (Refer to "Enter Initial Designation," SENTRY General Use TRM).

2. **CUSTODY ASSIGNMENT.** Enter the initial custody assignment in accordance with Table 4-1.

Table 4-1

LEVEL OF INSTITUTION INITIALLY DESIGNATED	INITIAL CUSTODY ASSIGNMENT
Minimum	OUT
Low	IN
Medium	IN
High	IN, unless initial designation is to USP Marion or ADX Florence, in which case the initial custody assignment is MAXIMUM.
Administrative	IN, unless inmate is Minimum security level and designation was not for security reasons, in which case the initial custody assignment is OUT.

3. **DESIGNATOR.** The Designator will enter his or her initials.

4. **REASON FOR DESIGNATION.** Designators will use this section to document whether the primary reason for designation was for security reasons or for management reasons.

- Enter "S" if the inmate's security level is the primary reason for designation and the placement is within normal guidelines. If "S" is entered, SENTRY will not permit an entry in the "Management Reason" field.
- Enter "M" if a Management Variable is the primary reason for designation and placement is outside normal guidelines. When "M" is entered, you must enter the appropriate Management Variable(s) (e.g., B = Judicial Recommendation, D = Release Residence, etc.) under the Management Reason item. While one MGTV is generally sufficient, a maximum of three MGTVs may be entered into SENTRY. In the unlikely event that an inmate's designation facility is inconsistent with his or her MSL, at least one additional non-MSL MGTV must be added to support and explain the inconsistency.
- When it is necessary to place an inmate at a particular institution temporarily in order to receive a parole hearing, a secondary designation is required.

The DSCC will notify the Warden of the secondary institution via GroupWise.

Following the hearing, the institution where the inmate was first placed should review the secondary designation and contact the DSCC if the results of the hearing indicate that a change in the secondary designation is required.

5. **MANAGEMENT VARIABLES.** See Chapter 5, pages 1-6 for a description of Management Variables and their application.

6. **REMARKS.** The Designator will enter any relevant information not already recorded that may have an impact on the designation process or the transportation of the inmate.

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BP-337 INMATE LOAD AND SECURITY DESIGNATION FORM

FEDERAL BUREAU OF PRISONS

INMATE LOAD DATA				
1. REGISTER NUMBER				
2. LAST NAME		3. FIRST NAME		4. MIDDLE
5. SUFFIX				
6. RACE	7. SEX	8. ETHNIC ORIGIN		9. DATE OF BIRTH
10. OFFENSE/SENTENCE				
11. FBI NUMBER			12. SSN NUMBER	
13. STATE OF BIRTH		14. OR COUNTRY OF BIRTH		15. CITIZENSHIP
16. ADDRESS-STREET				
17. CITY		18. STATE	19. ZIP	20. OR FOREIGN COUNTRY
21. HEIGHT FT	IN	22. WEIGHT LBS	23. HAIR COLOR	24. EYE COLOR
25. ARS ASSIGNMENT				
SECURITY DESIGNATION DATA				
1. JUDGE		2. REC FACILITY	3. REC PROGRAM	4. USM OFFICE
5. VOLUNTARY SURRENDER STATUS 0 = NO (-3) = YES				
IF YES, MUST INDICATE: 5a. VOLUNTARY SURRENDER DATE: _____				
5b. VOLUNTARY SURRENDER LOCATION: _____				
6. MONTHS TO RELEASE _____				
7. SEVERITY OF CURRENT OFFENSE		0 = LOWEST 1 = LOW MODERATE 3 = MODERATE 5 = HIGH 7 = GREATEST		
8. CRIMINAL HISTORY SCORE		0 = 0-1 2 = 2-3 4 = 4-6 6 = 7-9 8 = 10-12 10 = 13 +		
8a. SOURCE OF DOCUMENTED CRIMINAL HISTORY _____ - PRESENTENCE INVESTIGATION REPORT or _____ - NCIC III				
9. HISTORY OF VIOLENCE		NONE 0 MINOR 0 SERIOUS 0 >15 YEARS 1 10-15 YEARS 2 5-10 YEARS 3 <5 YEARS 5		
10. HISTORY OF ESCAPE OR ATTEMPTS		NONE 0 MINOR 0 SERIOUS 0 >15 YEARS 1 >10 YEARS 2 5-10 YEARS 3 <5 YEARS 3		
11. TYPE OF DETAINER		0 = NONE 1 = LOWEST/LOW MODERATE 3 = MODERATE 5 = HIGH 7 = GREATEST		
12. AGE		0 = 55 and over 2 = 36 through 54 4 = 25 through 35 8 = 24 or less		
13. EDUCATION LEVEL		0 = Verified High School Degree or GED 1 = Enrolled in and making satisfactory progress in GED Program 2 = No verified High School Degree/GED and not participating in GED Program		
13a. HIGHEST GRADE COMPLETED _____				
14. DRUG/ALCOHOL ABUSE		0 = Never/>5 Years 1 = <5 Years		
15. SECURITY POINT TOTAL				
16. PUBLIC SAFETY FACTORS		A-NONE B-DISRUPTIVE GROUP (males only) C-GREATEST SEVERITY OFFENSE (males only) F-SEX OFFENDER G-THREAT TO GOVERNMENT OFFICIALS H-DEPORTABLE ALIEN I-SENTENCE LENGTH (males only) K-VIOLENT BEHAVIOR (females only) L-SERIOUS ESCAPE M-PRISON DISTURBANCE N-JUVENILE VIOLENCE O-SERIOUS TELEPHONE ABUSE		
17. REMARKS				
18. OMDT REFERRAL (YES/NO) _____				

MANAGEMENT VARIABLES AND PUBLIC SAFETY FACTORS

MANAGEMENT VARIABLES

A Management Variable is required when placement has been made and/or maintained at an institution level inconsistent with the inmate's scored security level. Application of a Management Variable requires review and approval by the DSCC Administrator. When completing the BP-338, institution staff may only enter a Management Variable which the DSCC previously approved and entered as a management reason. Otherwise, the DSCC is the only office authorized to enter a variable. A maximum of three Management Variables may be entered for each case.

NOTE: SENTRY will not permit the simultaneous application of the Greater Security and Lesser Security MGTVs.

When a Management Variable no longer applies, institution staff will remove the variable(s) accordingly. When no Management Variable is required, institution staff will insert the letter "A" (NONE) in the space to signify that no MGTV(s) apply.

Management Variables entered at initial designation are manually transferred to the BP-338, Custody Classification form.

Request for Management Variable/Management Variable expiration date. All requests to apply a Management Variable (MGTV) or to update the Management Variable Expiration Date (MVED) must be submitted to the DSCC via GroupWise using the 409 form. Requests for Management Variables on WITSEC inmates are to be forwarded to the Inmate Monitoring Section, Central Office, Washington, DC. The following criteria will be utilized:

Only the DSCC or Central Office staff can apply a MGTV and update a MVED, with the exception of "I" (Med/Psych), which will be applied and reviewed by the Central Office Medical Designator and "U" (Long-Term Detainee), which will be applied by the Detention Services Branch, Correctional Programs Division, Central Office.

When requesting a MGTV or an updated MVED, only sections four and six need to be completed on the form 409. This request should normally be made to the DSCC within 21 calendar days following the inmate's scheduled custody review to ensure the DSCC is receiving a current Custody Classification Form, BP-338. After approval by the Warden, the request may be routed from the unit or shared folders, and unit staff must enter a DST assignment using the Update Transaction. Staff will enter W MGTV

as a DST assignment when the request is routed. DSCC staff will remove the assignment when the decision is made.

When requesting an updated MVED, staff are to indicate the recommended expiration date on the top portion of form 409.

When a case with the MGTV of "I" (Med/Psych) is scheduled for review and it is anticipated that this MGTV is no longer applicable, institution staff will complete all sections of form 409 and forward the request to the Central Office Medical Designator and the DSCC. The Central Office Medical Designator will review the case for continuation or deletion of this MGTV. If this MGTV is no longer appropriate, the Central Office Medical Designator will remove the MGTV. After the Central Office Medical Designator removes the MGTV "I," the DSCC will review the case for transfer. If a transfer is not appropriate, another MGTV is to be applied.

Expiration dates will be assigned in accordance with Table 5-1. The DSCC Administrator must evaluate the information on the form 409 to determine the appropriate expiration date for all applicable Management Variables. At the established expiration date, case management staff will review the current Management Variable(s) to determine appropriateness. In the rare instance when more than one MGTV is applied, all expiration dates will be displayed on the BP-338. When running a SENTRY roster, each MGTV and corresponding MVED will be displayed.

Management Security Level (MSL). Upon application of any of the following Management Variables: PSF Waived; Greater Security; Lesser Security, the DSCC is to apply an overriding Management Security Level (MSL) to reflect the inmate's assessed security needs. This MSL takes precedence over the security level reflected in SENTRY which is based upon the scored security level and the application of Public Safety Factors.

Designation must be made to a DFCL commensurate with the inmate's security needs as reflected in the Management Security Level.

If there is an extenuating circumstance in which an inmate's designation facility is inconsistent with his or her MSL, at least one additional non-MSL MGTV must be added to support and explain the inconsistency.

- A** **None.** No Management Variables apply. Institution staff are permitted to enter this item.
- B** **Judicial Recommendation.** The sentencing court may recommend a specific institution or program. When consistent with policies or when such actions are consistent with sound correctional management, the Bureau of Prisons attempts to satisfy judicial recommendations. When this is not feasible, the court is notified in writing with an explanation outlining the reasons for not satisfying that recommendation.
- D** **Release Residence.** The Bureau of Prisons attempts to place each inmate in an institution that is reasonably close to the anticipated release area. ~~Ordinarily, placement within 500 miles of the release area is to be considered reasonable, regardless of whether there may be an institution closer to the inmate's release area.~~ To the extent practicable, placement to the closest facility within 500 driving miles of the release area will be considered reasonable, subject to bed availability, the prisoner's security designation, the prisoner's programmatic needs, the prisoner's mental and medical health needs, any request made by the prisoner related to faith-based needs, recommendations of the sentencing court, and other security concerns of the Bureau of Prisons. This MGTV may also apply to inmates who are within 36 months of release.
- E** **Population Management.** Situations may occur in which an inmate requires housing in a facility which is not commensurate with his or her security level. Following are example situations: facility activation; population pressures affecting available appropriate-level bed space within 500 driving miles of the inmate's anticipated release residence; gang/security concerns.
- G** **Central Inmate Monitoring Assignment.** Pursuant to the CIM Program Statement, some inmates, for specified reasons, need to be monitored or separated from others. Sometimes these special management concerns limit the options for placement.
- I** **Medical or Psychiatric.** An inmate who has a history of or is presently exhibiting psychiatric problems may need an initial designation to a psychiatric referral center. Similarly, documented information reflecting that the inmate may need medical or surgical treatment may require a designation to a medical referral

center. Designations and redesignations of these inmates will be made by the Central Office Medical Designator.

- N** **Program Participation.** Occasionally, inmates become involved in specialized programs which are only available on a limited basis, or at specific institutions; in such instances, it might be appropriate to delay transfer pending completion of the program. Likewise, an inmate's ability to participate in a unique program may require placement at an institution not commensurate with his or her security level. Accordingly, when an inmate's security level changes during participation in a special program not likely to be available in another appropriate facility, causing placement outside normal guidelines, this MGTV will apply.
- R** **Work Cadre.** At secure facilities without satellite camps, the Regional Director may authorize a certain number of work cadre inmates to perform work outside the perimeter of the institution. The DSCC will apply the MGTV upon request of the institution.
- S** **PSF Waived.** An inmate may receive up to three Public Safety Factors (PSFs). PSFs may be waived after review and approval by the DSCC Administrator. When Public Safety Factors are waived causing placement outside normal guidelines, this MGTV will apply. Application of this MGTV mandates that the DSCC Administrator determine the most appropriate level of security required by the inmate and apply a Management Security Level (MSL). The MSL must be at least one level less than the scored security level which is based on the Security Total and PSF(s).
- Request for Public Safety Factor Waiver.** Only the DSCC Administrator is authorized to waive a PSF. A request for waiver of a PSF will be submitted to the DSCC via form 409, available on SALLYPORT. The form 409 will indicate that the request is for waiver of a Public Safety Factor. Items 1 through 7 must be completed when submitting a request for waiver of a PSF.
- U** **Long-term Detainee.** Long-term detainees are given an initial custody and security level. However, Custody Classification Forms are not to be completed on long-term detainees due to the unavailability or non-applicability of certain data (i.e., current term of confinement, length of time remaining to serve, accurate criminal history).

Therefore, transfers for positive or negative behavior may cause placement in a facility different from his or her scored security or custody level. When needed, this MGTV will be applied by the Detention Services Branch, Correctional Programs Division, Central Office.

Long-term criminal detainees whose security or custody level does not match that of their facility will have this Management Variable applied. This applies as well if an inmate rolls over to the status of a long-term detainee after being ordered detained upon expiration of the federal sentence and the security or custody level does not match that of the designated facility.

V Greater Security. There may be security concerns which are not adequately reflected in the classification scheme. In circumstances where an inmate represents a greater security risk (i.e., pending charges, detainer, escape risk, etc.) than their assigned security level, they may be placed in an institution outside normal guidelines, and this MGTV will apply. When this MGTV is applied based on institutional behavior which is **not** supported by a UDC/DHO finding of guilt, staff will ensure compliance with the criteria as set forth in the Program Statement on Inmate Discipline and Special Housing Units. Application of this MGTV mandates the DSCC Administrator determine the most appropriate level of security required by the inmate and apply a Management Security Level (MSL). Designation will then be made to a DFCL commensurate with the inmate's Management Security Level. The MSL must be at least one level greater than the scored security level which is based on the Security Total and Public Safety Factor(s). This MGTV requires up to a 24 month expiration date.

W Lesser Security. There may be security concerns which are not adequately reflected in the classification scheme. In circumstances where an inmate represents a lesser security risk (i.e., detainer removed, positive adjustment, etc.) than the assigned security level, the inmate may be placed in an institution outside normal guidelines. For example, where age is largely the contributing factor in the inmate's placement, this Management Variable will apply.

Application of this MGTV mandates the DSCC Administrator to determine the most appropriate level of security required by the inmate and apply a Management Security Level (MSL). The MSL must be at least one level less than the scored

security level which is based on the Security Total and Public Safety Factor(s).

DISCONTINUED MANAGEMENT VARIABLES. The following Management Variables have been discontinued: C - Age, F - Racial Balance, H - Voluntary Surrender, J - Custody, K - Detainer, L - Discipline, M - Grandfather Clause, O - Security, P - Sentence Limitation, and Q - Sliding Scale.

Table 5-1

MANAGEMENT VARIABLE EXPIRATION TABLE		
CODE	DESCRIPTION	LENGTH
A	None	N/A
B	Judicial Recommendation	N/A
D	Release Residence/Planning	N/A
E	Population Management	Up to 18 months**
G	Central Inmate Monitoring Assignment	N/A
I	Medical/Psychiatric	6 months
N	Program Participation	Up to 18 months, at the discretion of the Regional Director**
R	Work Cadre	N/A
S	PSF Waived*	N/A (However, if an inmate is transferred to a more secure institution based on behavior related to the waived PSF, this MGTV will be removed.)
U	Long-Term Detainee	N/A
V	Greater Security*	Up to 24 months**
W	Lesser Security*	N/A
* requires application of a Management Security Level (MSL) ** if no expiration date is entered, SENTRY will default to an expiration date 12 months in advance		

PUBLIC SAFETY FACTORS

A Public Safety Factor (PSF) is relevant factual information regarding the inmate's current offense, sentence, criminal history or institutional behavior that requires additional security measures be employed to ensure the safety and protection of the public. Public Safety Factors are normally applied on the Inmate Load and Security Designation Form (BP-337) prior to an inmate's initial assignment to an institution, however, additions or deletions may be made at anytime there after via the Custody Classification Form, (BP-338). A maximum of three PSFs may be applied, however if more than three apply, those which would provide the greatest security and public safety will be utilized.

CODE PSF - DESCRIPTION

A None. No Public Safety Factors apply.

B Disruptive Group. A **male** inmate who is a validated member of a Disruptive Group identified in the Central Inmate Monitoring System will be housed in a High security level institution, unless the PSF has been waived.

At the time of initial designation, if the Presentence Investigation Report or other documentation identifies the inmate as a possible member of one of the Central Inmate Monitoring Disruptive Groups, DSCC staff will enter a PSF on the BP-337. However, DSCC staff will not enter the CIM assignment "Disruptive Group." Upon loading this PSF on a not-yet-validated member, DSCC staff will (1) make a notation in the Remarks Section to indicate the need for validation upon arrival at the institution, and (2) notify the Central Office Intelligence Section, via GroupWise, to advise them of the inmate's status. Upon the inmate's arrival at the designated institution, the intake screener will notify the institution's Special Investigation Supervisor of the inmate's PSF, to initiate the validation process.

C Greatest Severity Offense. A **male** inmate whose current term of confinement falls into the "Greatest Severity" range according to the Offense Severity Scale (Appendix A) will be housed in at least a Low security level institution, unless the PSF has been waived.

F **Sex Offender.** A **male** or **female** inmate whose behavior in the current term of confinement or prior history includes one or more of the following elements will be housed in at least a Low security level institution, unless the PSF has been waived. A conviction is not required for application of this PSF if the Presentence Investigation Report (PSR), or other official documentation, clearly indicates the following behavior occurred in the current term of confinement or prior criminal history. If the case was dismissed or nolle prosequi, application of this PSF cannot be entered. However, in the case where an inmate was charged with an offense that included one of the following elements, but as a result of a plea bargain was not convicted, application of this PSF should be entered.

Example: According to the PSR, the inmate was specifically described as being involved in a Sexual Assault but pled guilty to Simple Assault.

Based on the documented behavior, application of this PSF should be entered:

(1) Engaging in sexual contact with another person without obtaining permission to do so (forcible rape, sexual assault or sexual battery);

(2) Possession, distribution or mailing of child pornography or related paraphernalia;

(3) Any sexual contact with a minor or other person physically or mentally incapable of granting consent (indecent liberties with a minor, statutory rape, sexual abuse of the mentally ill, rape by administering a drug or substance);

(4) Any sexual act or contact not identified above that is aggressive or abusive in nature (e.g., rape by instrument, encouraging use of a minor for prostitution purposes, incest, etc.). Examples may be documented by state or Bureau of Prisons' incident reports, clear NCIC entries, or other official documentation;

(5) Attempts are to be treated as if the sexual act or contact was completed; and/or,

(6) Any offense referenced in the Sex Offender Notification and Registration Program Statement.

CODE PSF - DESCRIPTION

- G** **Threat to Government Officials.** A **male** or **female** inmate classified with a Central Inmate Monitoring assignment of Threat to Government Official will be housed in at least a Low security level institution, unless the PSF has been waived.
- H** **Deportable Alien.** A male or female inmate who is not a citizen of the United States. All long-term detainees will have this PSF applied. When applied, the inmate or the long-term detainee shall be housed in at least a Low security level institution.
- The PSF shall not be applied, or shall be removed when the U.S. Immigration and Customs Enforcement (ICE) or the Executive Office for Immigration Review (EOIR) have determined that deportation proceedings are unwarranted or there is a finding not to deport at the completion of deportation proceedings. The Institution Hearing Program CMA of NO IHP or IHP CMP ND will then be applied. Additionally, the PSF shall not be applied if the inmate has been naturalized as a United States citizen.
- I** **Sentence Length.** A **male** inmate with more than ten years remaining to serve will be housed in at least a Low security level institution unless the PSF has been waived.
- A **male** inmate with more than 20 years remaining to serve will be housed in at least a Medium security level institution, unless the PSF has been waived.
- A **male** inmate with more than 30 years remaining to serve (including non-parolable LIFE sentences) will be housed in a High security level institution unless the PSF has been waived.
- K** **Violent Behavior.** A **female** inmate whose current term of confinement or history involves two convictions (or findings of commission of a prohibited act by the DHO) for serious incidents of violence within the last five years will be assigned to at least a Low security level institution, unless the PSF has been waived.

L **Serious Escape.** A **female** inmate who has been involved in a serious escape within the last ten years, including the current term of confinement, will be assigned to the Carswell Administrative Unit, unless the PSF has been waived.

A **male** inmate who has escaped from a secure facility (prior or instant offense) with or without the threat of violence or who escapes from an open institution or program with a threat of violence will be housed in at least a Medium security level institution, unless the PSF has been waived.

M **Prison Disturbance.** A **male** or **female** inmate who was involved in a serious incident of violence within the institution and was found guilty of the prohibited act(s) of Engaging, Encouraging a Riot, or acting in furtherance of such as described in, but not limited to institution disciplinary codes such as 103, 105, 106, 107, 212, 213 or 218. Such a finding must be in conjunction with a period of simultaneous institution disruptions. Males will be housed in at least a HIGH security level institution and females will be assigned to the Carswell Administrative Unit, unless the PSF has been waived.

N **Juvenile Violence.** A **male** or **female** offender, currently of juvenile age, who has any documented single instance of violent behavior, past or present, which resulted in a conviction, a delinquency adjudication, or finding of guilt. Violence is defined as aggressive behavior causing serious bodily harm or death or aggressive or intimidating behavior likely to cause serious bodily harm or death (e.g., aggravated assault, intimidation involving a weapon, or arson).

O **Serious Telephone Abuse.** A **male** or **female** inmate who utilizes the telephone to further criminal activities or promote illicit organizations and who meets the criteria outlined below, must be assigned a PSF for Serious Telephone Abuse. A conviction is **not required** for the PSF if the Presentence Investigation Report (PSR) or other official documentation clearly indicates that the above behavior occurred or was attempted. An inmate who meets this criteria must be housed in at

least a Low security level institution, unless the PSF is waived.

The PSF should be entered if any **one** of the following criteria applies.

- (1) PSR or comparable documentation reveals the inmate was involved in criminal activity facilitated by the telephone who:
 - meets the definition of a leader/organizer or primary motivator; or
 - utilized the telephone to communicate threats of bodily injury, death, assaults, or homicides; or
 - utilized the telephone to conduct significant fraudulent activity (actual or attempted) in an institution; or
 - leader/organizer who utilized the telephone to conduct significant fraudulent activity (actual or attempted) in the community; or,
 - arranged narcotic/alcohol introductions while confined in an institution.
- (2) Federal law enforcement officials or a U.S. Attorney's Office notifies the Bureau of Prisons of a significant concern and need to monitor an inmate's telephone calls;
- (3) The inmate has been found guilty of a 100 or 200 level offense code for telephone abuse.

NOTE: 200 level offense codes will be reviewed on a case-by-case basis.

- (4) A Bureau of Prisons official has reasonable suspicion and/or documented intelligence supporting telephone abuse.

NOTE: Any inmate who is assigned the Serious Telephone Abuse PSF may be subject to telephone restriction in accordance with the Telephone Regulations for Inmates Program Statement.

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DISCONTINUED PUBLIC SAFETY FACTORS**D** Firearms**E** High Drug**J** Designation Assessment**Table 5-2**

SECURITY DESIGNATION TABLE (MALES)		
INMATE SECURITY LEVEL ASSIGNMENTS BASED ON CLASSIFICATION SCORE AND PUBLIC SAFETY FACTORS		
Security Point	Public Safety Factors	Inmate Security Level
0 - 11	No Public Safety Factors Deportable Alien Juvenile Violence Greatest Severity Offense Sex Offender Serious Telephone Abuse Threat to Government Officials Sentence Length Time remaining > 10 Yrs Time remaining > 20 Yrs Time remaining > 30 Yrs (Includes non-parolable LIFE and Death penalty cases) Serious Escape Disruptive Group Prison Disturbance	Minimum Low Low Low Low Low Low Low Low Medium High Medium High High
12 - 15	No Public Safety Factors Serious Escape Sentence Length Time remaining > 20 Yrs Time remaining > 30 Yrs (Includes non-parolable LIFE and Death penalty cases) Disruptive Group Prison Disturbance	Low Medium Medium High High High
16 - 23	No Public Safety Factors Disruptive Group Prison Disturbance Sentence Length Time remaining > 30 Yrs (Includes non-parolable LIFE and Death penalty cases)	Medium High High High
24 +		High

Table 5-3

SECURITY DESIGNATION TABLE (FEMALES)		
INMATE SECURITY LEVEL ASSIGNMENTS BASED ON CLASSIFICATION SCORE AND PUBLIC SAFETY FACTORS		
Security Point Total	Public Safety Factors	Inmate Security Level
0 - 15	No Public Safety Factors	Minimum
	Deportable Alien	Low
	Juvenile Violence	Low
	Serious Telephone Abuse	Low
	Sex Offender	Low
	Threat to Government Officials	Low
	Violent Behavior	Low
	Prison Disturbance	High
	Serious Escape	High
16 - 30	No Public Safety Factors	Low
	Prison	High
	Disturbance Serious	High
31 +		High

CUSTODY CLASSIFICATION FORM INSTRUCTIONS (BP-338)
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INTRODUCTION. Custody classification is a procedure whereby an inmate is assigned a level of supervision according to their criminal history and institutional behavior/adjustment. An inmate's custody level is an indication of how much staff supervision an inmate requires within and beyond the confines of the institution.

An inmate's first custody classification will be scored at the first program review following initial classification (approximately 7 months after arrival at an institution). Subsequent reviews will occur at least every 12 months, but may be conducted earlier in order to enable progress toward community activities. Custody classification will ordinarily occur every 12 months at a regularly scheduled program review.

Only changes which increase or decrease the overall security level assignment of the inmate, i.e. FRP refuse, incident report(s), new sentence, sentence reduction etc., should be scored outside of the 12 month cycle.

When transferring to another institution, inmates normally retain their custody assignments. If the custody level is inconsistent with that authorized at the receiving institution, the sending institution will change the inmate's custody prior to transfer.

Holdovers will retain their initial custody level assignments until their first regularly scheduled custody review at their designated facility for service of sentence.

At each annual custody review, a new Custody Classification Form (BP-338) will be completed, even though the scoring elements may not have changed from the previous form. Only the most current BP-338 form will be retained in the Inmate Central File, except for those forms that must be retained to document appropriate review and approval for custody reductions (e.g., custody reductions for exception cases require the Warden, or designee, to sign the Custody Classification Form).

The form should be maintained to document the review and approval). As set forth in the definition of "Maximum" custody, Chapter 2, a BP-338 form changing an inmate's custody to or from "Maximum" custody must be permanently maintained.

It should be clearly understood that the Custody Classification Form only recommends an inmate's custody. The Unit Team and/or Warden is the final review authority. The intent of the Custody Classification system is to permit staff to use professional judgment within specific guidelines. Custody changes are not

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dictated solely by the point total. However, when the Unit Team decides not to follow the recommendation of the point total, they must document the reason(s) for this decision in writing on the Custody Classification Form, and inform the inmate.

A. IDENTIFYING DATA			
1. INSTITUTION CODE		2. UNIT	
4. NAME		3. DATE	
5. REGISTER NUMBER			
6. MANAGEMENT VARIABLES	A - NONE B - JUDICIAL RECOMMENDATION D - RELEASE RESIDENCE/PLANNING E - POPULATION MANAGEMENT	G - CIMS I - MED/PSYCH TREATMENT N - PROGRAM PARTICIPATION R - WORK CADRE	S - PSF WAIVED U - LONG-TERM DETAINEE V - GREATER SECURITY W - LESSER SECURITY
7. PUBLIC SAFETY FACTORS	A - NONE B - DISRUPTIVE GROUP (males only) C - GREATEST SEVERITY OFFENSE (males only) F - SEX OFFENDER G - THREAT TO GOVERNMENT OFFICIALS H - DEPORTABLE ALIEN	I - SENTENCE LENGTH (males only) K - VIOLENT BEHAVIOR (females only) L - SERIOUS ESCAPE M - PRISON DISTURBANCE N - JUVENILE VIOLENCE O - SERIOUS TELEPHONE ABUSE	

1. **INSTITUTION CODE.** (Automatically displayed by SENTRY.)
2. **UNIT.** (Automatically displayed by SENTRY.)
3. **DATE.** (Automatically displayed by SENTRY.)
4. **NAME.** (Automatically displayed by SENTRY.)
5. **REGISTER NUMBER.** (Automatically displayed by SENTRY.)
6. **MANAGEMENT VARIABLES.** See Chapter 5, pages 1-6.
7. **PUBLIC SAFETY FACTORS.** See Chapter 5, pages 7-13.

B. BASE SCORING

1. TYPE OF DETAINER

1. TYPE OF DETAINER	0 = NONE	3 = MODERATE	7 = GREATEST
	1 = LOWEST/LOW MODERATE	5 = HIGH	

Enter the appropriate number of points that reflect the inmate's detainer status. Refer to the Offense Severity Scale (Appendix A). If multiple detainers have been filed, enter the point value for the most serious charge. Frequency and sentence length are not considered.

The scoring of detainers on the Inmate Load and Security Designation Form (BP-337) may differ from the score received on the Custody Classification Form (BP-338). If there is a pending charge, points based on the documented behavior are assigned on

the type of detainer item; if the pending charge involves a probation violation, use the most severe documented behavior from the original offense as the basis for assigning points in the detainer scoring. Only formally filed detainers are considered on the Custody Classification Form after the second regularly scheduled custody review.

- Score consecutive state sentences, lodged state detainers and/or state parole violation terms/warrants as detainers. Inmates should be informed that it is vitally important that all pending charges and detainers be resolved as quickly as possible so that institution programming and release planning can occur.
- Score concurrent state sentences, as a detainer only if it is expected that the state sentence will exceed the federal sentence and the state has formally filed a detainer. Other formally filed state pending charges, consecutive sentences, and/or parole violation term/warrants will be scored as detainers.
Points will be assigned the same as they would be for a federal violation (see page 4 of this Chapter for further instructions).
- No points will be awarded for U.S. Parole Commission warrants (adjudicated or unadjudicated). However, the original offense behavior will be factored into the criminal history points and the violation behavior (including new offense behavior) will be scored as the current offense.
- No points will be assigned for ICE detainers. However, each case will be carefully reviewed to determine whether the PSF for Deportable Alien is applicable.
- If a formally filed detainer involves a probation violation, use the most severe documented behavior in the original offense as the basis for assigning points in the detainer scoring chart above.

2. SEVERITY OF CURRENT OFFENSE

2. SEVERITY OF CURRENT OFFENSE	0 = LOWEST 1 = LOW MODERATE	3 = MODERATE 5 = HIGH	7 = GREATEST	
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Enter the appropriate number of points that reflect the most severe documented instant offense behavior. For multiple offenses, the highest score will be used when scoring the current offense. Staff will consider the offense behavior of all sentences, including federal sentences that have a future

beginning date or a prior state or D.C. sentence if there was no physical release from custody.

Severity is determined by using the Offense Severity Scale (Appendix A). Do not use instant offense behavior to also assign points on the "history" items on the Custody Classification Form.

Example: According to the Presentence Investigation Report, the individual was involved in an Assault With Serious Injury (Greatest severity level) but pled guilty to a Simple Assault (Moderate severity level). Assign the points on the basis of the more severe documented behavior, i.e., assign 7 points (Greatest severity level). Do not use the current term of confinement information to assign points on the "history" items (numbers 5 and 6 on the Security Designation Data section of the BP-337).

In determining "Severity of Current Offense" staff must review the Statement of Reasons, (attachment to the Judgment) and ensure the information provided is appropriately used in classifying the inmate.

Example: According to the Presentence Investigation Report the individual was involved in a drug conspiracy responsible for distribution of 31 grams of cocaine base "Crack", but was individually only responsible for 2 grams, he/she would be scored as Moderate Severity in this category. However, the **STATEMENT OF REASONS**, indicates the Judge found the individual responsible for less than 1 gram; therefore, the appropriate scoring should be Low Moderate Severity.

- **Procedures for Parole, Mandatory Release, Special Parole Term, or Supervised Release Violator**

If the violation was the result of new criminal conduct, regardless of conviction status, use the new criminal conduct for scoring "Severity of Current Offense" (see Appendix A). If the violation behavior was a technical violation, score the "Severity of Current Offense" as Low Moderate Severity.

The original offense behavior which occurred prior to the violation is considered past behavior and is not used in determining "Severity of Current Offense."

• **Procedures for Probation Violator**

The original offense behavior that resulted in probation should be used for scoring "Severity of Current Offense" (see Appendix A).

However, if the new criminal conduct (violation behavior) is more severe than the original offense behavior, then use this behavior for scoring "Severity of Current Offense." The most severe documented behavior between the original offense and the violation behavior is to be used for scoring "Severity of Current Offense."

3. MONTHS TO RELEASE DATE

3. MONTHS TO RELEASE _____

If there is a current and valid sentence computation in SENTRY, SENTRY will automatically enter the number of months remaining into this field. If however, there is not a complete Sentence Computation/Projected Release Date in SENTRY, this entry must be manually computed. This item is not figured into the security point total but impacts the Sentence Length Public Safety Factor.

4. CRIMINAL HISTORY SCORE

4. CRIMINAL HISTORY SCORE	0 = 0-1 2 = 2-3	4 = 4-6 6 = 7-9	8 = 10-12 10 = 13 +	
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SENTRY will automatically insert the score that was entered for this item on the BP-337. If this item was not entered on the BP-337, insert the appropriate number of points that reflect the Criminal History Score. For further details on Criminal History Score see Chapter 4, Section 8.

5. HISTORY OF ESCAPE OR ATTEMPTS

5. HISTORY OF ESCAPE OR ATTEMPTS	NONE	>15 YEARS	10-15 YEARS	5-10 YEARS	<5 YEARS	
MINOR	0	1	1	2	3	
SERIOUS	0	3 (S)	3 (S)	3 (S)	3 (S)	

Enter the appropriate number of points that reflect the escape history of the individual, considering only those acts for which there are documented findings of guilt (i.e., DHO, Court, Parole, Mandatory Release, or Supervised Release Violation).

Escape

History includes the individual's entire background of escapes or attempts to escape from confinement, or absconding from community supervision, excluding the current term of confinement.

EXCEPTION: Any institution disciplinary hearing (UDC or DHO) finding that a prohibited act was committed during the current term of confinement will be scored as a history item.

State disciplinary findings are scored unless there is documentation that the state disciplinary proceedings did not afford due process protection to the inmate.

Fleeing or Eluding Arrest, Failure to Appear for traffic violations, runaways from foster homes and similar behavior should not be scored under the Escape History item, even if clearly documented, but should be considered on a case-by-case basis under the Management Variable "Greater Security." Failure to Appear or Flight to Avoid Prosecution for any offense however, must be counted when there is a documented finding of guilt.

In determining time frames, use the date of the documented occurrence. Documented information from juvenile or YCA adjudications can be used unless the record has been expunged or vacated.

Minor History of Escape - An escape from an open institution or program (e.g., minimum security facility, CCC, furlough) not involving any actual or threat of violence. Also includes military AWOL, Bail Reform Act, Flight to Avoid Prosecution, and Absconding from Community Supervision. There must be a finding of guilt.

Serious History of Escape - An escape from secure custody with or without threat of violence. Also includes escapes from an open facility or program with actual threat of violence. There must be a finding of guilt. S = 3 points and requires application of PSF L.

6. HISTORY OF VIOLENCE

6. HISTORY OF VIOLENCE	NONE	>15 YEARS	10-15 YEARS	5-10 YEARS	<5 YEARS
MINOR	0	1	1	3	5
SERIOUS	0	2	4	6	7

Enter the appropriate number of points that reflect any history of violence, considering only those acts for which there are documented findings of guilt (i.e., DHO, Court, Parole, Mandatory Release, or Supervised Release Violation). This item includes the individual's entire background of criminal violence, excluding the current term of confinement.

EXCEPTION: Any institution disciplinary hearing (UDC or DHO) finding that a prohibited act was committed during the current term of confinement will be scored as a history item.

State disciplinary findings are scored unless there is documentation that the state disciplinary proceedings did not afford due process protection to the inmate.

Severity of violence is determined by the offense behavior regardless of the conviction/finding of guilt offense. History of Violence points combine both seriousness and recency of prior violent incidents to assess the propensity for violent behavior, where more points mean greater risk. Therefore, if there is more than one incident of violence, score the combination of seriousness and recency that yields the highest point score. Prior periods of incarceration will be considered a "history" item if the inmate was physically released from custody and then returned to serve either a violation or a new sentence.

In determining time frames, use the date of the documented behavior. Documented information from juvenile or YCA adjudication can be used unless the record has been expunged or vacated.

Minor History of Violence - Aggressive or intimidating behavior which is not likely to cause serious bodily harm or death (e.g., simple assault, fights, domestic disputes, etc.) There must be a finding of guilt.

Serious History of Violence - Aggressive or intimidating behavior which is likely to cause serious bodily harm or death (e.g., aggravated assault, domestic violence, intimidation involving a weapon, incidents involving arson or explosives, rape, etc.). There must be a finding of guilt.

Example: If an offender was found guilty of homicide 20 years ago and a simple assault 3 years ago, assign 5 points for the simple assault. Or in another case, the offender had guilty findings for homicide 12 years ago; aggravated assault 8 years ago; and fighting 2 years ago, score 6 points for the aggravated assault 8 years ago.

NOTE: Attempted suicide, self-mutilation and possession of weapons are not applicable behaviors for History of Violence scoring. In addition, verbal threats (such as Code 203- Threatening Bodily Harm) are to be viewed as minor violence.

7. VOLUNTARY SURRENDER

7. VOLUNTARY SURRENDER	0 = NOT APPLICABLE	(-3) = VOLUNTARY SURRENDER	
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This item allows for the subtraction of three points from the "Base Score" (Item 11 below), when the Judgement indicates the inmate was ordered to voluntarily surrender. Enter the appropriate number of points. For purposes of this item, voluntary surrender means the inmate was not escorted by a law enforcement officer to either the U.S. Marshals Office or the place of confinement.

NOTE: Supervised Release, Mandatory Release, and Parole Violators will not receive credit for Voluntary Surrender even if it is approved by the court.

8. AGE

8. AGE	0 = 55 and over	4 = 25 through 35	
	2 = 36 through 54	8 = 24 or less	

SENTRY will automatically cross-reference the inmate's date of birth and assign the appropriate number of points that reflect his or her age. Staff do not have to manually enter an offender's age.

9. EDUCATIONAL LEVEL

9. EDUCATION LEVEL	0 = Verified High School Degree/GED	
	1 = Enrolled in and making satisfactory progress in GED Program	
	2 = No verified High School Degree/GED & not participating in GED Program	

Enter the appropriate number of points, that reflect the inmate's education level as verified by the Education Department.

NOTE: The scoring of this item on the Custody Classification form differs from the scoring on the Security Designation form. Therefore, unit staff must reconcile information obtained since the inmate's previous score on this item.

In addition to the points assigned for the education level, the highest grade completed (HGC) will also be recorded on the BP-

337. For example an inmate who began but did not complete the 7th grade will be given a 6 in the HGC field. Similarly, a GED

will be given a 12, a college graduate a 16, a Master's degree an 18, and a Ph.D. a 21 (the maximum allowed) in the HGC field.

10. DRUG/ALCOHOL ABUSE

10. DRUG/ALCOHOL ABUSE	0 = Never/>5 Years	1 = <5 Years	
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Enter the appropriate number of points that reflect drug or alcohol abuse by the inmate. Examples of drug or alcohol abuse include: a conviction of a drug or alcohol related offense, a parole or probation violation based on drug or alcohol abuse, positive drug test, a DUI, detoxification, etc. Absent any information similar to the above, an inmate's self report is sufficient to score this item. If this information is unknown, enter a "U" and the item will be scored as zero.

11. BASE SCORE

11. BASE SCORE (ADD B. ITEMS 1 - 10)	
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SENTRY will compute the base score based upon the points entered for Items 1 - 10 (excluding Item 3). In cases where the total results in a negative number the base score will be set at zero.

C. CUSTODY SCORING**1. PERCENTAGE OF TIME SERVED**

1. PERCENTAGE OF TIME SERVED	3 = 0-25% 4 = 26-75%	5 = 76-90% 6 = 91+%	
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Enter the number of points that reflect the percentage of time the inmate has already served on the present commitment at the time of the review. To determine the percent, divide the number of months already served on the present sentence by the number of months of incarceration the inmate will have served upon reaching his/her projected release date. If applicable, give credit for jail time.

Example: An inmate has served 15 months (14 months at the institution, plus credit for one month jail time) of an anticipated total of 78 months of confinement.

$$\frac{\text{Actual Time Served}}{\text{Anticipated Time in Confinement}} = \frac{15}{78} = 19.2\%$$

Enter "3" , since 3 represents a range of 0 to 25%.

2. PROGRAM PARTICIPATION

2. PROGRAM PARTICIPATION	0 = POOR	1 = AVERAGE	2 = GOOD	
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Enter the appropriate number of points that reflect the inmate's level of initiative in programming. This is based on the inmate's active program involvement, eg. RPP, FRP, Drug education or Treatment Programs, education programs, or any other suitable programs as recommended by the Unit Team.

Unit Teams should score this area at the time of the custody review so input may be gained from all classification team members.

NOTE: Inmates in "FRP Refuse", "RPP Refuse", or who refuse to participate in mandatory drug education or treatment programs will be scored with 0 points regardless of any other programs achievements. Otherwise, assign points as follows:

GOOD - The inmate actively participates in multiple recommended programs.

AVERAGE - The inmate could be participating in multiple recommended programs but chooses to be involved in one at a time. This also includes inmates who are on official waiting lists for programs recommended by the Unit Team.

POOR - No program involvement, refuses to participate, or poor participation in programs in which he/she is enrolled.

3. LIVING SKILLS

3. LIVING SKILLS	0 = POOR	1 = AVERAGE	2 = GOOD	
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Enter the appropriate number of points that reflect the inmate's living skills during the past 12 months. This is based on the inmate's demeanor, attitude, personal accountability and nature of interaction with staff and other inmates. Incident Reports in and of themselves are not the determining factor in assessing the points on this item; however, the underlying behavior(s) may influence the scoring of this item. Unit Teams should score this item at the time of the custody review so input may be gained from all classification team members.

NOTE: Inmates in "FRP Refuse", "RPP Refuse", or who refuse to participate in mandatory drug education or treatment programs will be scored with 0 points regardless of any other programs achievements. Otherwise, assign points as follows.

GOOD - The inmate fully complies with staff expectations. He/she consistently receives outstanding sanitation and work reports and impresses staff as a "model inmate" in all other aspects of adjustment. He/she has developed a good rapport with staff. This high level of responsibility is consistent throughout the year.

While behavior(s) of a minor concern may occur occasionally, they do not detract from the inmate's overall favorable performance.

He/she is perceived by staff as attempting to program in a positive manner. Some examples of such behavior(s) are as follows:

- Rare property/sanitation related counseling necessary; however, not as the result of or leading to an Incident Report or extra duty;
- Work reports that are excellent overall, though not all evaluation elements are rated as "outstanding;" and,
- Uncharacteristic instances of staff reported negative interactions or behavior that do not result in Incident Reports.

AVERAGE - The inmate generally complies with staff expectations although falls short of providing a full and complete effort.

He/she has been counseled about sanitation, work performance and/or other aspects of adjustment; however, the inmate is not viewed as problematic. The inmate's rapport with staff is satisfactory. The inmate presents well personally; however, he/she fails to display any significant motivation for self-improvement.

POOR - The inmate consistently fails to meet staff expectations as evidenced by poor quarters sanitation, personal hygiene, negative interaction with staff/peers, or poor work reports.

4. TYPE AND NUMBER OF MOST SERIOUS INCIDENT REPORT(S)

4. TYPE & NUMBER 0 = ANY GREAT (100) IN PAST 10 YRS 3(A)= 1 MOD (300) IN PAST YR OF MOST 1 = > 1 HIGH (200) IN PAST 2 YRS 3(B)= >1 LOW MOD (400) IN PAST YR SERIOUS 2(A)= 1 HIGH (200) IN PAST 2 YRS 4 = 1 LOW MOD (400) IN PAST YR INCIDENT RPT 2(B)= > 1 MOD (300) IN PAST YR 5 = NONE	
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Enter the points that reflect the most serious Incident Report(s) received by the inmate. This is determined by using the Institution Disciplinary Codes and Sanctions Severity Scale. Points are assigned based on the most severe Incident Report(s) for which the inmate has been found guilty by either

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the Unit Disciplinary Committee (UDC) or the Discipline Hearing Officer (DHO), within the specified time frames. Points are to be assigned only for the current period of incarceration.

NOTE: Disciplinary findings while an inmate is housed under BOP authority in non-BOP correctional facilities should be scored if received during the current period of incarceration unless there is documentation that the disciplinary proceeding(s) did not afford due process protection to the inmate.

Example: If an inmate has been found guilty of three HIGH severity Incident Reports within the past two years, he/she would receive a score of "1." If the inmate has only received one HIGH severity incident report within the past two years, the inmate would receive a score of "2(a)."

NOTE: Greatest severity Incident Reports merit a score of "0" regardless of the total number received in the last ten years.

The letter characters assigned to numerical scores 2 and 3 are merely used to differentiate between these items which have identical numerical values. The letter character is not used for computation.

NOTE: For supervised release, mandatory release, and parole violators, Incident Reports received during a previous period of confinement should be used, if they apply, for scoring "History of Escape or Violence," and "Drug/Alcohol Abuse." However, Incident Reports received during a previous period of confinement will not be counted when scoring "Type and Number of Most Serious Incident Reports" and "Frequency of Incident Reports" since this behavior occurred during a previous period of confinement. Only Incident Reports received during the current supervised release and parole violator term will be counted in these categories.

5. FREQUENCY OF INCIDENT REPORTS

5. FREQUENCY OF INCIDENT REPORTS (IN PAST YEAR)	0 = 6+ 1 = 2 THRU 5	2 = ONE 3 = NONE	
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Enter the appropriate number of points that reflect the frequency of Incident Reports.

This is determined by assigning points based on the number of Incident Reports for which the inmate has been found guilty by

either the Unit Discipline Committee or the Discipline Hearing Officer during the past 12 months.

6. FAMILY/COMMUNITY TIES

6. FAMILY/COMMUNITY TIES	3 = NONE OR MINIMAL	4 = AVERAGE OR GOOD	
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Enter the number of points that reflect the level of family and community ties. This is based on the inmate's efforts to build, maintain and strengthen family/community ties rather than the unilateral efforts of the family/community to provide support and assistance to the inmate. Consideration should be given to the following:

- Financial support (not to include FRP participation);
- Visiting (consider inmate's efforts in establishing visiting list, frequency of visits, and who is visiting);
- Development of phone list with focus on family, employment, and community;
- Sending and receiving regular correspondence;
- Participation in Institution Release Preparation Program and institution sponsored mock job fairs;
- Involvement in parenting program and other family oriented activities;
- Contacts with social service providers to promote/enhance family stability (i.e., school guidance counselors, welfare workers, treatment providers);
- Contact with Prisoner Visitation Services;
- Participation in institution sponsored community service opportunities (i.e., Toys for Tots, Make a Wish Foundation, community gardens, Special Olympics); and,
- Voluntary involvement with community activities.

Score each inmate based on his/her unique circumstances while focusing on what the inmate does to maintain, build or strengthen these ties. To best accomplish this, Unit Teams should score this item at the custody review so input can be gained from all classification team members and possibly even the inmate.

Examples:

Inmates who demonstrate no initiative to further and/or enhance relationships with supportive parents/spouse/children should be scored as "none or minimal." (e.g., visiting and phone lists that do not include family members, no effort to provide financial support for children);

Inmates with limited financial resources who have parents/spouse/children living significant distances from their designated facilities, and request to have these family members placed on their visiting and phone lists, and send and receive frequent letters from family and make phone calls to them when funds are available. These inmates score as "average or good;" and,

Inmates with no surviving parents, siblings, spouse, or children may receive an "average or good" rating by developing contacts through Prisoner Visitation Services (PVS) and participation in community based activities and community service opportunities.

7. CUSTODY TOTAL

7. CUSTODY TOTAL (ADD C. 1 - 6)	
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Add the points in items 1 through 6, Section C, and enter the sum in this block.

8. CUSTODY VARIANCE

8. CUSTODY VARIANCE (FROM APPROPRIATE TABLE ON BP-338, PAGE 2)	
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The Custody Variance adjusts the inmate's total security points as specified in Tables 6-1(M) and 6-1(F) based upon the inmates custody score. If the appropriate table indicates a value other than zero the application of the Custody Variance will:

- add points to the base score, thus raising the security level and increasing the custody (when the value is positive); or,
- subtract points from the base score, thus lowering the security level and decreasing the custody (when the value is negative).

Table 6-1 (M)

Male Custody Variance Table		CUSTODY TOTAL																
		6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
B S	0-11	+4	+4	+3	+3	+2	+1	+1	+1	0	0	-1	-1	-2	-3	-4	-5	-5
A C	12-15	+4	+4	+3	+3	+2	+1	+1	+1	0	0	0	-1	-2	-3	-4	-5	-5
S O	16-23	+8	+6	+5	+4	+4	+3	+2	+1	+1	0	0	0	-1	-1	-2	-2	-3
E R	24+	+8	+6	+5	+4	+4	+3	+2	+1	+1	+1	0	0	0	-1	-1	-2	-3

Example: A male inmate has a Base Score of 17 points and a Custody Total of 11 points. By using the Custody Variance Matrix, the intersecting point for these two items is +3. Thus, +3 is the Custody Variance score that will be entered on Item 8, Section C.

Table 6-1 (F)

Female Custody Variance Table		CUSTODY TOTAL																
		6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
B S	0-15	+15	+11	+7	+4	+3	+2	+1	+1	0	0	0	0	-2	-4	-8	-12	-16
A C	16-30	+15	+11	+7	+4	+3	+2	+1	+1	0	0	0	0	0	-4	-8	-12	-16
S O	31+	+15	+11	+7	+4	+3	+2	+1	+1	0	0	0	0	0	0	-1	-5	-8

Example: A female inmate has a Base Score of 17 points and a Custody Total of 11 points. By using the Custody Variance Matrix, the intersecting point for these two items is +2. Thus, +2 is the Custody Variance score that will be entered on Item 8, Section C.

9. SECURITY TOTAL

9. SECURITY TOTAL (ADD OR SUBTRACT CUSTODY VARIANCE (C.8) TO BASE SCORE (B.10))	
---	--

Apply the Custody Variance Score to the Base Score, and enter the result on Item 10, Section C.

Example: An inmate has a Base Score of 16 and a Custody Variance Score of +4. By applying +4 to 16, a Security Total of 20 is obtained and entered on Item 9, Section C.

NOTE: If the Custody Variance score is 0, the figure entered will be exactly the same as the Base Score. If the application of the Custody Variance to the Base Score results in a negative number, use 0.

10. SCORED SECURITY LEVEL

10. SCORED SECURITY LEVEL _____

An inmate's Security Level is determined by the Security Total and any applicable Public Safety Factors (see Chapter 5).

11. MANAGEMENT SECURITY LEVEL (MSL)

11. MANAGEMENT SECURITY LEVEL _____

A Security Level which is entered by the DSCC or Central Office upon application of any of the three MSL Management Variables (PSF Waived, Greater Security, Lesser Security). The MSL overrides the inmate's scored security level. If there was a previously entered MSL, it will automatically appear in this position.

12. CUSTODY CHANGE CONSIDERATION

To determine eligibility for a custody change, the following procedures apply:

- If the Custody Variance Score (Section C, Item 8) is in the positive (+) range, consider a custody increase;
- If the Custody Variance Score (Section C, Item 8) is 0, the inmate's present custody is continued; or,
- If the Custody Variance Score (Section C, Item 8) is in the negative (-) range, consider a custody decrease.

SECTION D. INSTITUTION ACTION

1. TYPE OF REVIEW

1. TYPE OF REVIEW (EXCEPTION OR REGULAR)	
--	--

An inmate should be handled as an exception case if there is documentation of the following:

- **Public Safety Factors.** Any inmate with a PSF. If the PSF has been waived the case is still considered an exception;
- **Central Inmate Monitoring Assignment.** An inmate with a CIM assignment, excluding state prisoners and separation cases; or,
- **Other.** The Warden may specify in writing other offenses or cases that require exception review.

If the inmate does not meet any of the above criteria the "Type of Review" will be "Regular." For Regular Cases, the Unit Team has authority to make custody assignments, and the Unit Manager is the signature authority on the BP-338. For Exception Cases, the Warden or designee is the approving official and retains signature authority for the BP-338 whenever there is a decrease in custody. Unit staff will indicate on the BP-338 form the reason for the Exception Case, only in those instances in which the unit team will make a recommendation for a reduction in custody level.

2. CURRENT CUSTODY

2. CURRENT CUSTODY (MAXIMUM, IN, OUT, COMMUNITY)	
--	--

Check the proper code for the inmate's current custody:

MAX = MAXIMUM, IN = IN, OUT = OUT, COM = COMMUNITY

3. NEW CUSTODY

3. NEW CUSTODY (MAXIMUM, IN, OUT, COMMUNITY)	
--	--

Check the proper code for the inmate's new custody:

MAX = MAXIMUM, IN = IN, OUT = OUT, COM = COMMUNITY

As indicated below, the Custody Classification Form only recommends; the final decision rests with the review authority. With the exceptions noted previously in Item 1, Type of Review, the Unit Team has the following options:

Table 6-2

BP-338 FORM RECOMMENDS	CLASSIFICATION TEAM OPTIONS
Custody Increase(+) range	Increase custody one level or Continue same custody assignment and document why
Custody Decrease(-) range	Decrease custody one level or Continue same custody assignment and document why
Continue Present Custody	Continue same custody assignment or (Refer to the Warden, see below)

The custody level should normally be reduced or increased by only one level (i.e., a reduction of IN would be to OUT, not to COMMUNITY; an increase from COMMUNITY would be to OUT, not to IN). However, an exception regarding increases can be made for disciplinary cases involving prohibited acts of the Greatest Severity or escape, provided it is justified by the Unit Team in a memo to the inmate's central file with a copy to the inmate.

Additionally, transfer to a CCC may require the custody level to be decreased more than one level. If the inmate is receiving a custody reduction solely for the purpose of transferring to a CCC, a new Custody Classification Form (BP-338) does not need to be completed. Approval for a decrease to COMMUNITY custody is granted by virtue of the Warden's approval and signature on the Institution Referral for CCC Placement (BP-210).

While it is mandatory that COMMUNITY custody be effected at the time of transfer, it may not be appropriate to reduce the inmate's custody level prior to the date of transfer (e.g., it would not be appropriate for an IN custody inmate at a MEDIUM security level institution to have COMMUNITY custody while still housed at the institution). In such cases, upon receipt of a CCC acceptance date, a SENTRY future assignment would be established for the date of transfer. The effective time for the reduction would be 12:01 AM. An inmate must be assigned COMMUNITY custody status prior to transfer to a CCC.

If the Custody Variance (Section C, Item 8) is zero (Continue Present Custody), and the Unit Team believes that there is a compelling reason to change the inmate's custody, the Unit Team will refer the case to the Warden, who is the deciding official.

4. ACTION

4. ACTION: (APPROVE, DISAPPROVE)	
----------------------------------	--

For exception cases only, the Warden or designee should check the appropriate box indicating either approval or disapproval of the Unit Team's decision. If the Warden disagrees with the form, he/she will indicate the reasons on the 338 form. For regular cases, the Unit Manager will take this action.

5. DATE OF NEXT REVIEW

5. DATE OF NEXT REVIEW	
------------------------	--

Enter the month and year of the next scheduled review.

6. CHAIRPERSON

6. CHAIRPERSON	NAME AND SIGNATURE
----------------	--------------------

The Unit Manager will print his or her name and sign the form in the space provided.

7. EXCEPTION REVIEW

7. EXCEPTION REVIEW	NAME (WARDEN OR DESIGNEE) AND SIGNATURE
---------------------	---

This item is reserved for the Warden or designee's printed name and signature if the inmate is an exception case as defined in Item 1 of this section. If the Warden or designee disapproves, the reason will be documented on the Custody Classification Form (BP-338) and a copy provided to the inmate.

8. SUMMARY OF FINAL ACTION

8. SUMMARY OF FINAL ACTION:	SECURITY LEVEL	
	CUSTODY	

After all action is complete (exception cases signed off, etc.,) the final outcome will be entered. Upon completion, the form is to be filed in the Inmate Central File, Section 2, and the appropriate custody assignment updated in SENTRY.

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BP-338 CUSTODY CLASSIFICATION FORM
PAGE 1U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS

A . I D E N T I F Y I N G D A T A				
1. INSTITUTION CODE		2. UNIT		3. DATE
4. NAME		5. REGISTER NUMBER		
6. MANAGEMENT VARIABLES A - NONE B - JUDICIAL RECOMMENDATION D - RELEASE RESIDENCE/PLANNING E - POPULATION MANAGEMENT G - CIMS I - MED/PSYCH TREATMENT N - PROGRAM PARTICIPATION R - WORK CADRE S - PSF WAIVED U - LONG TERM DETAINEE V - GREATER SECURITY W - LESSER SECURITY				
7. PUBLIC SAFETY FACTORS A - NONE B - DISRUPTIVE GROUP (males only) C - GREATEST SEVERITY OFFENSE (males only) F - SEX OFFENDER G - THREAT TO GOVERNMENT OFFICIALS H - DEPORTABLE ALIEN I - SENTENCE LENGTH (males only) K - VIOLENT BEHAVIOR (females only) L - SERIOUS ESCAPE M - PRISON DISTURBANCE N - JUVENILE VIOLENCE O - SERIOUS TELEPHONE ABUSE				
B . B A S E S C O R I N G				
1. TYPE OF DETAINEER		0 = NONE 1 = LOWEST/LOW MODERATE 3 = MODERATE 5 = HIGH 7 = GREATEST		
2. SEVERITY OF CURRENT OFFENSE		0 = LOWEST 1 = LOW MODERATE 3 = MODERATE 5 = HIGH 7 = GREATEST		
3. MONTHS TO RELEASE				
4. CRIMINAL HISTORY SCORE		0 = 0-1 2 = 2-3 4 = 4-6 6 = 7-9 8 = 10-12 10 = 13 +		
5. HISTORY OF ESCAPE OR ATTEMPTS		NONE MINOR 0 SERIOUS 0 >15 YEARS 1 10-15 YEARS 1 5-10 YEARS 2 0 <5 YEARS 3 3(S) 3(S) 3(S) 3(S)		
6. HISTORY OF VIOLENCE		NONE MINOR 0 SERIOUS 0 >15 YEARS 1 10-15 YEARS 1 5-10 YEARS 3 <5 YEARS 5 2 4 6 7		
7. VOLUNTARY SURRENDER STATUS 0 = NOT APPLICABLE (-3) = VOLUNTARY SURRENDER				
8. AGE		0 = 55 and over 2 = 36 through 54 4 = 25 through 35 8 = 24 or less		
9. EDUCATION LEVEL 0 = Verified High School Degree/GED 1 = Enrolled in and making satisfactory progress in GED Program 2 = No verified High School Degree/GED & not participating in GED Program				
10. DRUG/ALCOHOL ABUSE 0 = Never/>5 Years 1 = <5 Years				
11. BASE SCORE (ADD \$B. ITEMS 1 - 10)				
C. CUSTODY SCORING				
1. PERCENTAGE OF TIME SERVED		3 = 0-25% 4 = 26-75% 5 = 76-90% 6 = 91+%		
2. PROGRAM PARTICIPATION		0 = POOR 1 = AVERAGE 2 = GOOD		
3. LIVING SKILLS		0 = POOR 1 = AVERAGE 2 = GOOD		
4. TYPE & NUMBER OF MOST SERIOUS INCIDENT RPT		0 = ANY GREAT (100) IN PAST 10 YRS 1 = > 1 HIGH (200) IN PAST 2 YRS 2(A) = 1 HIGH (200) IN PAST 2 YRS 2(B) = > 1 MOD (300) IN PAST YR 3(A) = 1 MOD (300) IN PAST YR 3(B) = >1 LOW MOD (400) IN PAST YR 4 = 1 LOW MOD (400) IN PAST YR 5 = NONE		
5. FREQUENCY OF INCIDENT REPORTS (IN PAST YEAR)		0 = 6+ 1 = 2 THRU 5 2 = ONE 3 = NONE		
6. FAMILY/COMMUNITY TIES		3 = NONE OR MINIMAL 4 = AVERAGE OR GOOD		
7. CUSTODY TOTAL (ADD \$ C. 1 - 6)				
8. CUSTODY VARIANCE (FROM APPROPRIATE TABLE ON BP-338, PAGE 2)				
9. SECURITY TOTAL (ADD OR SUBTRACT CUSTODY VARIANCE (\$ C.8) TO BASE SCORE (\$ B.11))				
10. SCORED SECURITY LEVEL		11. MANAGEMENT SECURITY LEVEL		

U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS

1. TYPE OF REVIEW: (EXCEPTION OR REGULAR)		
2. CURRENT CUSTODY: (MAXIMUM, IN, OUT, COMMUNITY)		
3. NEW CUSTODY: (MAXIMUM, IN, OUT, COMMUNITY)		
4. ACTION: (APPROVE, DISAPPROVE)		
5. DATE OF NEXT REVIEW		
6. CHAIRPERSON		
NAME AND SIGNATURE _____		
7. EXCEPTION REVIEW		
NAME (WARDEN OR DESIGNEE) AND SIGNATURE _____		
8. SUMMARY OF FINAL ACTION:		
SECURITY LEVEL		
CUSTODY		

IF CUSTODY VARIANCE IS IN THE (+) RANGE	CONSIDER A CUSTODY INCREASE
IF CUSTODY VARIANCE IS IN THE (-) RANGE	CONSIDER A CUSTODY DECREASE
IF CUSTODY VARIANCE IS ZERO	CONTINUE PRESENT CUSTODY

Male Custody Variance Table			CUSTODY																
			6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
B A S E	S C O R E	0-11	+4	+4	+3	+3	+2	+1	+1	+1	0	0	-1	-1	-2	-3	-4	-5	-5
		12-15	+4	+4	+3	+3	+2	+1	+1	+1	0	0	0	-1	-2	-3	-4	-5	-5
		16-23	+8	+6	+5	+4	+4	+3	+2	+1	+1	0	0	0	-1	-1	-2	-2	-3
		24+	+8	+6	+5	+4	+4	+3	+2	+1	+1	+1	0	0	0	-1	-1	-2	-3

[illegible]

INMATE TRANSFER

TRANSFER PROCEDURES. Transfers (also known as redesignations) are used to move inmates from one institution to another as needed, with each type of transfer having a specific objective. The following are some of the more frequent reasons for a transfer:

- institution classification;
- nearer release;
- disciplinary/close supervision;
- adjustment;
- medical/psychological treatment;
- temporary transfers;
- training purposes/program participation;
- Institution Hearing Program;
- pre-release; and,
- transfers from CCC's.

After review and approval by the Unit Team, a transfer request is submitted via the Request for Transfer/Application of Management Variable (409) to the DSCC. The procedures for completing the 409 are outlined below and may only be waived or modified with the approval of the Assistant Director, Correctional Programs Division, Washington, D.C. or his/her designee.

1. **Inmate's Medical Status.** Include current, complete, and accurate available information concerning any medical problem that might affect redesignation;

2. **Institution Adjustment.** Include a brief description of the inmate's adjustment during this period of incarceration with emphasis on recent adjustment;

3. **Rational for Referral.** Include a complete, specific justification and support for the requested action;

4. **Parole Hearing Scheduled.** Indicate whether or not the inmate is eligible for a parole hearing. If yes, indicate the date of the hearing. (See SALLYPORT for a current listing of parole/non-parole institutions).

5. **Past or Present Behavior and/or Management Concerns.** Note any past or present behavior and/or management concerns which may affect placement (i.e., history of arrests or disruptive behavior

which may not have resulted in a conviction, inmates preference regarding this request, etc.). Also note any Security Threat Group concerns/associations. In addition, it is necessary for staff to closely review each case submitted for any CIM concerns. Any CIM concerns should be noted on the 409 if applicable.

However, it is not necessary for staff to route a Request for CIM Activity Clearance with each transfer request since CIM activity clearance is included in the redesignation for all CIM assignments except WITSEC cases. Redesignations between same security level institutions are discouraged, except for CIM purposes, nearer release purposes, or other unusual circumstances. Copies of all transfer requests for Disruptive Group Members will be forwarded to the Intelligence Section, Central Office, via GroupWise upon approval of the transfer. Additionally, the institution Special Investigative Supervisor should also receive a copy of the transfer request; and

6. **BP-337/BP-338 Discrepancies.** Include a brief description of any scoring changes between the BP-337 and BP-338.

Complete all required information, then route the request through normal institutional review channels for approval by the CEO. After approval by the CEO, it may be routed to the DSCC Administrator from the unit's mailbox. The Unit Team will enter the appropriate "DST" assignment (see below) into SENTRY as confirmation that a redesignation request has been submitted to the DSCC or OMDT. Enter this SENTRY assignment under the "DST" category using the "Update Inmate Assignment" transaction.

- Enter "W REDES R" if the transfer request is for a routine transfer.
- Enter "W REDES M" if the transfer request requires a review by the OMDT (Medical Designator).

Once the e-mail requesting redesignation is received, DSCC staff will at a minimum review the following SENTRY transactions to determine if the inmate is appropriate for redesignation:

CIM Clearance and Separatee Data;
Inmate Load Data;
Inmate Profile;
Custody Classification Form;
Security/Designation Data Form; and,
Chronological Disciplinary Record.

If the transfer is approved, DSCC staff will enter the information and the appropriate destination (DST) assignment in

SENTRY on the "Enter Redesignation" screen and will also note the approved institution transfer code. The method of transportation is at the discretion of the Warden. Should a change in DST be required, DSCC staff will make the change in SENTRY prior to the inmate's arrival at the designated institution.

If the transfer is denied, DSCC staff will indicate the denial on the "Update Inmate Remarks" screen and will also delete the "W REDES" from SENTRY. Unit staff should closely monitor SENTRY for deletions of the "W REDES" transaction.

1. INSTITUTION CLASSIFICATION TRANSFERS. These transfers are typically referred to as either "Lesser Security" (Code 308) transfers or "Greater Security" (Code 307) transfers.

a. Security Level Changes

(1) When a decrease in the inmate's security level is indicated by the Custody Classification Form, transfer of the inmate to a lower security level institution should be considered.

(2) Likewise, an increased security level may be indicated in a similar fashion. The security total may increase to a higher security level range.

If an updated security scoring, combined with Public Safety Factors, indicate that an inmate is rated at a different security level, the inmate must be referred to the DSCC for either transfer or application of a Management Variable. For example, if an inmate in a Low security level institution is reclassified to Minimum security, the case must be referred for transfer or application of a Management Variable. If transfer is denied, DSCC staff will apply an appropriate Management Variable and add a Management Security Level, if applicable.

b. Custody Level Changes. During an inmate's custody review, a custody level may be increased or decreased (ordinarily, only one level at a time) indicating a transfer is appropriate. For example:

(1) A Medium security level inmate has OUT custody, and becomes eligible for COMMUNITY custody. If the Unit Team decides to reduce custody, the inmate would normally be referred for redesignation to a Low or Minimum security level facility, since Medium security level institutions do not house COMMUNITY custody inmates. If approved for transfer by the DSCC, the Management Variable of Lesser Security will be applied and the Management Security Level will be changed accordingly.

(2) An inmate's transfer to a higher security institution could be triggered by an increase in custody needs. For example, a Medium security level inmate with IN custody becomes eligible for a custody increase. The team agrees to increase the custody to Maximum. Since Medium security level facilities are not authorized to house Maximum custody inmates, the inmate must be referred for transfer to a High security level institution and the MSL changed in accordance with the application of an MGTV.

2. NEARER RELEASE TRANSFERS (Code 313). Nearer release transfers move the inmate closer to their legal residence or release destination, consistent with their security level. Inmates may be considered for a nearer release transfer only after serving 18 consecutive months of clear conduct in a general population. Nearer release transfers should be incorporated with "Lesser Security" transfers whenever possible. Once the inmate has been transferred within 500 driving miles of his or her release residence, ~~no further referrals will be made for nearer release transfer consideration.~~ further referrals can be considered for nearer release transfer consideration subject to bed availability, the prisoner's security designation, the prisoner's programmatic needs, the prisoner's mental and medical health needs, any request made by the prisoner related to faith-based needs, recommendations of the sentencing court, and other security concerns of the Bureau of Prisons.

Transfer to a facility in an area other than the inmate's legal residence or sentencing district may be considered by the inmate's Unit Team provided the inmate can provide strong evidence of community and/or family support. Institution staff should use sound correctional judgment when reviewing such requests for transfer to ensure the transfer is consistent with guidelines established in this chapter.

Inmates with an Order for Deportation, an Order of Removal, an ICE detainer for an unadjudicated offense(s) or an ICE detainer for a hearing will not be transferred for nearer release purposes since they will be returning to the community outside, rather than inside, the United States upon release.

3. WITSEC TRANSFERS. All movement of Witness Security cases is coordinated exclusively through the Inmate Monitoring Section of the Correctional Programs Branch, Central Office. Witness Security cases will not be transferred without authorization from that office. Witness Security inmates who require medical or mental health treatment at a medical center must also be approved by the Medical Designator.

If the inmate is classified as a WITSEC case, a copy of the medical referral will be sent simultaneously to the Inmate

Monitoring Section (IMS) and the Medical Designator. The Inmate Monitoring Section will coordinate with the OMDT regarding an appropriate placement. Placement will be based on available medical resources, security needs, bed space availability, and the inmate's need for medical care. IMS will enter activity clearances for WITSEC cases.

4. DISCIPLINARY/CLOSE SUPERVISION TRANSFERS (Codes 309/323). An act(s) of documented institution misconduct may result in an inmate's transfer to another institution, normally of greater security, for disciplinary reasons. Wardens may recommend same security level transfers only when placement at a greater security level institution is not possible or other overriding circumstances exist.

Disciplinary or Close Supervision transfer requests will be sent electronically to the DSCC Administrator and contain the following information:

- (a) Request for Transfer/Application of Management Variable (must be thorough and specific);
- (b) Close Supervision investigation report, if requested; and,
- (c) Intelligence data or supporting memorandum if requested.

Institution staff should carefully review the management of 309/323 cases on an individual basis, applying sound correctional judgment that considers the safety and security of the inmate, the institution and its staff and the community.

5. ADJUSTMENT TRANSFERS (Code 330). All transfer referrals submitted as Code 330 transfers for adjustment purposes will be reviewed by the DSCC. Adjustment purposes transfer requests will be sent electronically to the DSCC Administrator via Form 409. DSCC staff will ensure that the transfer does not meet the requirements of an unverified protection transfer, Code 323.

6. MEDICAL AND PSYCHIATRIC TRANSFERS (Codes 331-336 and 338, 339). Medical designations and transfers are approved by the Central Office Medical Designator, Office of Medical Designations and Transportation (OMDT). The Central Office Medical Designator assigns inmates to Medical Referral Centers (MRC), institutions with medical resources, or non-Bureau community care centers to provide needed medical services.

Medical redesignations are initiated for inmates with acute medical, surgical, or psychiatric condition, or for those inmates who have chronic care needs that cannot be addressed at the parent institution. Transfers will be classified as either

(a) Emergency, (b) Routine/Urgent, or (c) Routine.

If an inmate objects, either in writing or through his or her attorney, to a transfer for psychiatric/mental health treatment, the provisions of 18 U.S.C. § 4245 may apply. Staff will suspend transfer action in such cases and refer the matter to their Regional Counsel for review. The Regional Counsel will notify the institution when the transfer action can be re-instituted.

a. **Emergency Transfer** - An emergency transfer is a medical, surgical, or psychiatric situation determined by medical/mental health staff that requires immediate, direct transportation.

This includes inmates not medically or psychiatrically capable of transport via routine BOP air/surface transportation, e.g., bus, commercial air, or USMS/Bureau airlift. Direct transportation is defined as air ambulance, air charter, or ground ambulance and, in some instances, an institution vehicle may be utilized.

b. **Routine/Urgent Transfer** - A routine/urgent transfer is initiated for medical, surgical, or psychiatric treatment that is not an emergency, however must be transported directly to a MRC, typically within two to three weeks of designation.

Routine urgent transfers require direct transfer to the MRC because of the acuity of their medical, surgical, or psychiatric condition, or because MRC-based services need to be initiated within an appropriate time frame. Holdover housing at a county jail or Bureau general population institution is not permissible.

c. **Routine Transfer** - A routine transfer is initiated for medical, surgical, or psychiatric treatment that is not an emergency and time en-route is not a major factor.

Routine transfers may travel by any available means.

d. **Procedures for Initiating Emergency, Routine/Urgent, and Routine Transfer Requests.**

All transfer requests for medical, surgical, or psychiatric designations will be initiated via GroupWise on the Medical/Surgical and Psychiatric Referral Request Form (BP-770) available on SALLYPORT.

The HSA, with input from the Clinical Director and other providers involved with the inmate's care (e.g., mid-level providers, psychologists, consultant physicians), is responsible for completing the BP-770. The referring institution Warden must review the BP-770 and authorize the request for transfer.

The BP-770 serves as the redesignation, transportation, and security worksheet from which the actual redesignation is made. It will also serve as the emergency referral request form, documentation of the inmate's condition and the reason

for transfer. Accordingly, it is essential that the BP-770 be completed thoroughly and accurately.

The Medical Designator will review each request for redesignation and approve or deny the requested transfer. Based on clinical information and in consultation with the Medical Director, the Medical Designator may change the urgency level of the request.

OMDT will authorize CIM clearance (if appropriate) and enter approved transfers to an appropriate BOP facility in SENTRY on the "Enter Redesignation" screen.

e. **Completion of Treatment** - All requests for redesignation to the parent facility upon completion of Medical/Surgical or Psychiatric treatment, or to another medical facility for continuation of treatment, will be initiated by the facility currently housing the inmate via GroupWise on the Discharge Transfer Summary form. This form serves as the designation, transportation, and security worksheet from which the redesignation is made.

Medical cases are normally returned to their parent facility unless the DSCC approves a change in the parent facility based on clinical justification provided prior to redesignation by the Medical Designator.

7. **TEMPORARY TRANSFERS.** It is sometimes necessary to temporarily transfer an inmate to a contract facility or other Bureau institution. This is normally for security reasons, when the current institution does not have a Special Housing Unit. In such cases, institution staff will forward a request for temporary transfer approval from the Warden to the DSCC. The request will include the rationale for transfer, with assurance that the receiving facility is in agreement with the temporary transfer. Transfer approval must be obtained prior to the transfer during normal working hours, or if after hours, the next work day. A copy of this request will be routed to the appropriate CCM office, if the transfer is to a contract facility.

8. **TRANSFERS FOR TRAINING PURPOSES OR PROGRAM PARTICIPATION.**

An inmate is ordinarily only transferred for specialized national programs not offered at the parent facility to include:

- (a) Residential Drug Treatment Program;
- (b) Life Connections Program;
- (c) Special Management Unit; and
- (d) Sex Offender Programs.

When placement for program participation is inconsistent with the assigned security level, the appropriate Management Variable must be applied by the DSCC. Ordinarily, the inmate will be

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returned to the referring institution upon completion of the specialized training or program if the inmate has 18 months or more remaining until the inmate's release date at the time of the transfer. Further, if the program facility is nearer to the inmate's release residence, than is the referring institution, the inmate may remain at the program facility.

9. **INSTITUTION HEARING PROGRAM TRANSFERS.** The Institution Hearing Program (IHP) is a coordinated effort by the Bureau, ICE, and the EOIR to provide deportation or exclusion proceedings to sentenced aliens as expeditiously as possible after the date of conviction. Eligibility, designation, classification, and transfer procedures are specifically outlined in Bureau directives. IHP sites have been established for male and female non-U.S. citizens who are serving federal sentences to ensure a deportation or exclusion hearing is conducted early in their sentence instead of at the end of their sentence.

10. **TRANSFERS TO SATELLITE CAMPS.** The Warden of an institution with a satellite camp may transfer an inmate from the main institution to the camp if the inmate is assigned an appropriate security and/or custody level. The Camp Administrator of a satellite camp adjacent to a Low or Medium security level institution may temporarily transfer the inmate to the main institution for disciplinary purposes (i.e., disciplinary segregation). If a need for an immediate redesignation arises, the inmate may be placed as a holdover in Administrative Detention at the main institution while approval is sought from the DSCC for redesignation to that institution or another institution.

An inmate may travel via "unescorted transfer" from a low or minimum security level institution to a minimum security level institution if the inmate is a minimum security level inmate and has OUT or COMMUNITY custody. The inmate's family (on the approved visiting list) may provide transportation to the receiving institution only if the inmate is transferring from a minimum security level institution to another minimum security level institution, and if approved by the Warden. The inmate's family is expected to bear all transportation costs. The inmate must go directly from the sending institution to the receiving institution.

The Warden may authorize clearance for the transfer of a CIM Case, with the exception of WITSEC cases, to the satellite camp of the parent facility provided established regulations for regular transfer authority have been met. (Refer to the CIM Manual for more specific details).

11. **PRE-RELEASE TRANSFERS.** Inmates in federal and contract institutions may be transferred to CCCs in accordance with the Program Statement Community Corrections Center (CCC) Utilization and Transfer Procedure. Inmates who have been approved for CCC referral and are otherwise appropriate for camp placement are to be transferred to a camp for intermediate placement if at all practicable. Inmates should be encouraged to complete all or most of the Institution Release Preparation Program at the parent institution prior to transfer.

The parent institution is to complete the CCC referral packet and the camp should be closer to the inmate's release residence. This process should be completed to allow the inmate a minimum of a 60-day placement at the camp prior to the reporting date at the CCC. CCC referrals may be made 12 to 18 months in advance of an anticipated reporting date with the concurrence of local CCM offices. A notation that the CCC referral was made with a specific projected placement date should be included in the request for institution transfer, and the transfer request should be prepared at the same time as the CCC referral.

12. **TRANSFERS FROM CCC'S.** When an inmate fails to meet the conditions of CCC placement, the CCM should designate the inmate to the parent institution with consideration given to the following criteria for designation:

- (a) local manday detention rates;
- (b) availability of Bureau Detention Centers;
- (c) budgetary constraints;
- (d) projected release date; and,
- (e) distance to parent facility.

When returning the inmate to the parent institution is not cost effective, the Community Corrections Office will refer the case to the DSCC for designation. DSCC staff, will make the designation, and should consider the closest institution commensurate with the inmate's security needs. When the DSCC designates the inmate to a facility, DSCC staff will notify the parent institution to facilitate the forwarding of the central file.

13. **LONG-TERM DETAINEES.** The authority for the redesignation of long-term detainees rests with the Detention Services Branch, Correctional Programs Division, Central Office. Refer to the current Program Statement Maribel Cuban Detainees for transfer procedures. Transfers for medical or mental health treatment however, shall be referred to the Central Office Medical Designator. Maribel Cubans who are sentenced, and therefore not detainees, are handled in a routine fashion by DSCC staff.

14. **IN-TRANSIT DATA FORM**

a. Upon notice that an inmate is being transferred or temporarily released to an authorized law enforcement officer (e.g., U.S. Marshal, state law enforcement officer, or Bureau bus officer), the Unit Manager will ensure the following:

- The top portion of the SENTRY automated In-Transit Data Form is accurate and the bottom portion is completed;
- CIM, YCA, DCYRA and any other important information is included in the space for "Non-Routine Security Needs;"
- CIM separation information is accurate, up-to-date and the SENTRY generated "CIM Clearance and Separatee Data" is attached to the In-Transit Data Form; and,
- The In-Transit Data Form is signed, dated, and forwarded to ISM staff who will attach a current inmate photograph and provide the form to the transporting officer.

NOTE: The most recent In-Transit Data Form is maintained in the Inmate Central File. The "CIM Clearance and Separatee Data" display will not be filed with the In-Transit Data Form.

b. Upon receipt of the In-Transit Data Form, ISM staff will ensure the following:

- The information indicated on the top portion of the form is correct. SENTRY update functions should be executed in the event that the data is not accurate;
- The Sentencing Remarks should include the offenses and the length of sentence as noted on the Judgment.

If

this information is not accurate, the load data should be updated;

- The Detainer Remarks should indicate all active detainers and the charge or offense. If the detainer has been litigated, information regarding the sentence imposed or time remaining to serve should be listed.
If this information is not current, the commitment should be updated; and,

- Initials are placed below the detainer remarks indicating that the information has been confirmed and is accurate and up-to-date.

15. **TRANSFER CODES.** The reason for transfer, as shown by one of the codes listed at the end of this chapter, must be provided in the top portion of the Transfer Order. If there is more than one reason for transfer, the most pertinent code should be used. Note that all Unescorted Transfers are Discharge Code - FURL TRANS for Furlough Transfer.

16. **SPECIAL REQUIREMENTS**

a. An inmate having a detainer or pending charge may be transferred to any institution for which he or she properly classifies; however, generally when there is a formally filed detainer, the inmate is not to be transferred to an institution more distant from the detaining authority unless there is substantial reason to believe the detainer will be dropped or the pending charge will not be prosecuted.

An inmate who indicates an intention to oppose extradition is not to be transferred within the last 30 calendar days prior to release to an institution in the state that placed the detainer. Such cases, and others in which there are legal or jurisdictional problems, are to be referred to the Regional Correctional Programs Administrator (See Program Statement Inmate Systems Management Manual).

b. When there is reason to transfer an inmate to a non-federal institution for concurrent service of federal and state sentences, the Warden will refer the case to the DSCC Administrator. Refer to the Program Statement, Transfer of a Prisoner to State Custody Prior to Release from the Federal Sentence, for procedures.

17. **RELATIONSHIPS WITH OTHER AGENCIES**

a. **U.S. Parole Commission.** Parolable inmates must be housed at a parolable institution in accordance with their parole hearing requirements unless a hearing is no longer required.

b. **Administrative Office of the U.S. Courts.** The court of conviction may recommend to the Attorney General or the Bureau that the defendant be retained at, or transferred to, a place of confinement near the place of trial or the court of appeals, for a period reasonably necessary to permit the defendant to assist in the preparation of his or her appeal. Upon receiving this recommendation, the Bureau will make every effort to place the inmate in such a facility. If a reason exists for not placing the inmate in that facility, the court must be notified of the situation and an attempt will be made to arrive at an acceptable place of confinement.

Ordinarily, complicated jurisdictional or legal problems should be resolved before transfer. Ordinarily, the sending Case Management Coordinator will determine if an inmate has legal action pending in the district in which confined. If so, the individual should not be transferred without prior consultation with the appropriate U.S. Attorney or Regional Counsel, or both. Under Rule 23(a) of the Federal Rules of Appellate Procedures, an inmate may not be transferred, pending review of a Habeas Corpus proceeding commenced before a court, without the approval of the court.

Approval for transfer should be sought through the U.S. Attorney or Regional Counsel in cases where a Habeas Corpus petition is pending.

c. **Non-Federal Authorities.** The decision to accept a state prisoner in the Bureau is the responsibility of the DSCC Administrator. When notifying the state authority of acceptance, the state's contract code will be identified.

The Office of Procurement, Central Office is responsible for negotiating contracts for housing state prisoners. If it is necessary to transfer a federal inmate to a local jail, the sending institution must immediately notify the U.S. Marshals and the CCM, preferably prior to the transfer.

d. **Military Inmates.** The DSCC will accept a military or Coast Guard inmate recommended for transfer to federal custody if, after examination of all available information, the Bureau can provide appropriate resources for the inmate's needs. The DSCC will be responsible for the designation and redesignation of all military and Coast Guard inmates accepted for service of their sentence in Bureau custody.

In some cases, special agreements or Memoranda of Understanding (MOU) have been established with various military branches. These MOUs give direction to Bureau staff regarding which Bureau regulations and policies apply to the military inmates. Pursuant to 10 U.S.C. § 858, staff should be aware that military or Coast Guard inmates confined in Bureau institutions are subject to the same discipline and treatment as other inmates in those institutions.

Additionally, the Bureau will accept the sentence computation provided by the military or Coast Guard authorities with the exception that the Bureau will release such inmates, if not paroled, under the provisions of 18 U.S.C. § 4164 provided they have accrued good time deductions in excess of 180 days. DSCC staff will refer to the appropriate military or Coast Guard authorities for resolution of suspected sentence computation errors or discrepancies, or challenges to the sentence computation by the inmate or his or her representative, or both.

Once a military inmate comes into Bureau custody, all notifications and requirements apply as if he or she were a Bureau inmate, i.e., VWP notification, VCCLEA notification, Sex Offender Notification, and IFRP requirements. Notification to the military is also required at least 30 days prior to the inmate's release.

18. **STATE PLACEMENT.** Inmates who have exhausted available resources within the Bureau, should be referred for placement in an appropriate non-federal facility under contract with the Bureau. Preparation of a transfer referral to merely "exhaust" all BOP resources is not required when the inmate is clearly not appropriate for any facility within the Bureau.

a. **Placement Procedures.** The Warden will prepare a memorandum to the DSCC Administrator outlining the reasons for state placement of a federal inmate. This memorandum will be forwarded along with supporting documentation and classification material that will, at a minimum, include the following:

- (1) Presentence Investigation Report;
- (2) Two copies of the Judgment;
- (3) Relevant SENTRY data;
- (4) Current Progress Report; and,
- (5) Any Disciplinary or SIS Reports.

If the DSCC Administrator approves an inmate for state placement, DSCC staff will select a state correctional system for referral. The system selected will be based on the type of facilities within the system; available bed space; court status (state systems that are under injunction because of overcrowding or violations of inmates' civil rights will not be used), and the state's willingness to accept federal boarders. Once a suitable state correctional system has been identified, DSCC staff will forward the transfer packet to the appropriate Community Corrections Regional Administrator, overseeing the state in which the DSCC Administrator has identified for possible placement. DSCC staff may make up to two referrals per inmate at a time, and continue this process until an appropriate placement is secured. The CCRA will work through the local CCM office which will refer the case for state placement. The CCM office will advise the CCRA of the response from the state authority/Department of Corrections. If approved for placement, the CCRA will initiate SENTRY redesignation procedures, and forward the inmate file to the CCM office. If not approved for placement the CCRA will

advise the DSCC Administrator, who will continue to secure a suitable state placement.

The CCM office with state monitoring authority in which the inmate is eventually housed assumes full responsibility for the inmate, including biennial reviews and subsequent transfer authority. State placement materials containing, at a minimum, a Progress Report, Presentence Investigation Report, and all memoranda pertaining to the state placement, will be forwarded to and maintained by the CCM office after the inmate has been approved for placement.

If an inmate is approved for permanent return to the Bureau, the place of confinement will be determined by the DSCC. If an inmate is returned to the Bureau for medical treatment, the inmate will be returned to the state when the medical treatment is completed. Occasionally, returning the inmate to the originating state may not be appropriate. In such cases, the DSCC will obtain a new place of incarceration for the inmate, after consultation with the Office of Medical Designation and Transportation.

b. **Post-Placement Monitoring.** After a federal inmate has been placed in a state contract facility, the appropriate CCM will review the case every two years beginning from the date of the inmate's arrival to determine whether the inmate is still appropriate for state placement. The CCM's cover memorandum containing a recommendation and a Progress Report provided by the state contract facility will be forwarded to DSCC staff who will make a determination for continued state placement or return to Bureau custody.

If the inmate requires continued placement in that state facility, DSCC staff will enter a notation on the SENTRY "CIM Clearance and Separatee Data" screen indicating such. However, if state placement is no longer necessary, the inmate will be redesignated to Bureau custody by the DSCC.

Inmates serving a sentence of Death will also be reviewed for continued state placement. Information received from Community Corrections staff during the review of the contract may be used to make a determination for continued state placement.

The DSCC is responsible for monitoring and tracking state placement requests received from BOP institutions. The CCRA will prepare a quarterly report (statistical/narrative) which will be forwarded to the DSCC Administrator.

19. **SECONDARY DESIGNATION.** Upon initial designation, an inmate may be designated specifically for a parole hearing or program participation, and as a result, may require a secondary designation upon completion of the activity. If upon completion of the activity, staff determine that the secondary designation is no longer appropriate, the DSCC will be notified for reconsideration. Otherwise, when the conditions of the initial designation are met, institution staff will prepare a Transfer Order for signature of the sending institution Warden and arrangements will be made for movement of the inmate through routine procedures.

A secondary designation will not normally be made for cases designated for medical or psychiatric treatment. The medical center or reviewing institution will notify the Medical Designator upon completion of evaluation or treatment. Approval will be given for a secondary designation at that time. This approval will be based on medical requirements of the inmate and resources of the secondary designation.

20. **POPULATION MANAGEMENT.** The Assistant Director, Correctional Programs Division periodically reviews each institution's Rated and Designation Capacities. Occasionally, it is necessary to impose a moratorium or population cap on a particular institution to avoid or reduce overcrowding. The Assistant Director, Correctional Programs Division, with the approval of the Population Management Subcommittee of the Executive Staff, may impose a moratorium on other facilities including the Medical Referral Center general population units. The Assistant Director, Health Services Division, with the approval of the Population Management Subcommittee of the Executive Staff, may authorize a moratorium or population cap for Medical Referral Centers (excluding general population).

a. Referral Procedures

(1) The Warden of the institution recommends to the Regional Director that a moratorium or population cap be established.

(2) The Regional Director reviews the request, and if in agreement, contacts the Assistant Director, Correctional Programs Division, or the Assistant Director, Health Services Division, and either requests a population cap or total moratorium.

A population cap places a ceiling on the number of inmates that can be designated to a facility. A total moratorium is defined as a complete cessation of all initial designations and redesignations to an institution or DFCL assignment.

In extreme circumstances, the Assistant Director, Correctional Programs or Health Services Division with concurrence of the Subcommittee may direct that inmates en route to a facility be redesignated. When a moratorium or population cap is imposed, a termination date will be established. The cap or moratorium will be terminated on that date unless the Regional Director contacts the appropriate Assistant Director, Correctional Programs or Health Services Division, and obtains an extension.

(3) The appropriate Assistant Director will issue a GroupWise e-mail notifying the DSCC Administrator and Chief Executive Officers of the cap or moratorium.

21. INSTITUTIONS WITH SPECIAL MISSIONS

a. **FCI Oakdale.** The Bureau, ICE, and the Executive Office for Immigration Review (EOIR) work closely together to meet the requirements of the Immigration Reform and Control Act of 1986, by ensuring the expeditious review of criminal aliens for deportation. Beds are available for federally sentenced aliens, who are subject to administrative proceedings under the Immigration and Naturalization Act. Such inmates are transferred to FCI Oakdale for disposition of their ICE detainer prior to completion of their federal sentence.

Mexican and Cuban nationals are not eligible for the Oakdale Criminal Alien Program. The following procedures apply for the actual selection and designation of inmates to the Oakdale Criminal Alien Program.

(1) The ICE Officer in Charge at FCI Oakdale will monitor the inmate male population via SENTRY to identify criminal aliens appropriate for the program at FCI Oakdale. After they have been identified, ICE staff will place a detainer on these individuals through the DSCC. Each week DSCC staff will compile a list of the criminal aliens who are to be released within the next year. A courtesy list will be submitted, via GroupWise, to FCI Oakdale for monitoring purposes.

(2) ICE staff at FCI Oakdale will forward to DSCC staff information on alien inmates via GroupWise to assist in the movement of inmates to FCI Oakdale at a later date. The movement of inmates to FCI Oakdale will be authorized and coordinated by the DSCC. DSCC staff will ensure CIM clearance is obtained and the Custody Classification form reflects appropriate use of any Management Variable.

(3) Inmates will be redesignated no later than seven months from a firm projected release date. Once approved for transfer,

institution and transportation staff will immediately schedule the inmate for movement to FCI Oakdale. Institution staff will notify the Oakdale CMC if the inmate is not en route within 15 working days of the transfer approval. The central file should contain a current Progress Report and all pertinent case management activities should be completed prior to transfer including fines and the ordering of parole certificates, when applicable, or preparation of other release documents as required.

(4) ISM staff will ensure any other detainers lodged against those inmates approved for transfer are resolved and the detaining authority notified before the inmate is transferred to FCI Oakdale.

(5) Because of unforeseen circumstances, some criminal aliens may be inappropriate for transfer to FCI Oakdale. ICE staff at FCI Oakdale will notify DSCC staff when this occurs and will advise of any additional action necessary to coordinate the resolution of the inmate's citizenship/release status. Conversely, institution staff are to contact DSCC staff if they believe a transfer should not occur. If the transfer is deemed inappropriate, DSCC staff will delete the Oakdale "DST" transfer approval.

(6) The Detention Services Branch, Correctional Programs Division, Central Office will assist with coordination of the Oakdale Criminal Alien Program and will act as the primary liaison with ICE and EOIR Headquarters on matters of mutual interest affecting the program's development and/or modification. Any questions regarding these matters should be directed to that office.

b. **USP Marion/ADX Florence.** USP Marion/ADX Florence general population units are designed for male inmates who have demonstrated an inability to function in a less restrictive environment without being a threat to others, or to the secure and orderly operation of the institution.

(1) **Referral Procedures and Criteria.** Prior to referring an inmate to USP Marion or ADX Florence, redesignation to another high security institution should be considered first.

If transfer to another institution is not appropriate, Wardens will refer the proposed USP Marion or ADX Florence case to North Central Regional Director. The North Central Region will designate the inmate as appropriate.

Assignment to USP Marion or ADX Florence will ordinarily be made without regard for such factors as release destination or

program needs, such as education and vocational training. Prior to transfer to USP Marion or ADX Florence, staff at the sending institution will ensure that the inmate is assigned Maximum custody. While in transit to USP Marion or ADX Florence, inmates will be housed and provided visiting, correspondence, and telephone privileges as if confined at USP Marion or ADX Florence.

Inmates currently diagnosed as suffering from serious psychiatric illnesses should not be referred for placement at either USP Marion or ADX Florence.

(2) **Referral Packet for USP Marion or ADX Florence.** The referral packet for either USP Marion or ADX Florence general population will include the following items:

(a) A memorandum from the Warden to the North Central Regional Director with the specific rationale supporting the institution's recommendation;

(b) Copies of all disciplinary reports, investigative materials or other official documentation related to the behavior prompting the referral;

(c) A current Progress Report;

(d) A copy of the inmate's latest Presentence Investigation Report; and,

(e) A recent psychiatric or mental health evaluation.

Inmates with severe or chronic behavior patterns that cannot be addressed in any other Bureau institution should be referred to ADX Florence general population, and those who are somewhat less problematic should be referred to USP Marion. In describing the reasons underlying the referral, the Warden should explain why he or she has selected USP Marion or ADX Florence, respectively.

(3) **Acceptance or Rejection of Referrals.** The North Central Regional Director has final review authority for referrals to the USP Marion and ADX Florence general population units. In some cases, the Regional Director may approve placement at USP Marion when a referral has been submitted for ADX Florence and vice versa.

A response to a recommendation for USP Marion or ADX Florence placement will ordinarily be made by the North Central Regional Director within 60 calendar days after receiving the

referral packet from the referring institution. Approval or denial will be noted in SENTRY on the inmate's "CIM Clearance and Separatee Data" screen, with a brief memorandum from the North Central Regional Director to the requesting Warden to follow.

(4) **Transfer from USP Marion or ADX Florence.** Once an inmate successfully completes the USP Marion or ADX Florence program, the Warden will submit a transfer request to the North Central Regional Director. Upon the North Central Regional Director's approval the request will be forwarded to the DSCC for determination of an appropriate facility. Inmates will ordinarily be transferred from USP Marion or ADX Florence using Code 308 - Lesser Security. Ordinarily, inmates completing the ADX Florence program will be transferred to a High Security facility, other than USP Marion.

(5) **USP Marion Failures.** Inmates who continue to exhibit disruptive misconduct at USP Marion may be considered for referral to ADX Florence general population or the Control Unit.

c. FMC Carswell Administrative Unit

(1) **Initial Designations.** Initial designations may only occur in extraordinary situations by DSCC staff.

(2) **Redesignation Criteria.** The FMC Carswell Administrative Unit is designed to house females exhibiting any of the following:

- A history of escape or attempted escape from a secure institution;
- Demonstrated repeated incidents of assaultive or predatory behavior;
- Demonstrated chronic behavior problems; and/or
- Special management concerns.

(3) **Referral** for transfer to the FMC Carswell Administrative Unit will be submitted via the Request for Transfer/Application of Management Variable (409) to the DSCC Administrator.

(4) **Acceptance or Rejection of Referrals.** The DSCC Administrator has final review authority for referrals to FMC Carswell Administrative Unit.

TRANSFER CODES	
CODE	DESCRIPTION
276	FURLOUGH TRANSFER: Unescorted furlough transfer to a CCC.
307	INSTITUTION CLASSIFICATION: Transfer to an institution with greater security (e.g., Low to Medium).
308	INSTITUTION CLASSIFICATION: Transfer to an institution with less security (e.g., High to Medium).
309	DISCIPLINARY: Transfer as a result of an act(s) of misconduct related to documented poor institutional adjustment. See Program Statement on Discipline and Special Housing Unit.
313	NEARER RELEASE: Transfer for the purpose of placing an inmate in an institution nearer the release destination or to facilitate the release process.
314	TRAINING PURPOSES: Discontinued (Use Code 324).
315	TRAINING COMPLETED: Discontinued (Use Code 325).
316	TEMPORARY TRANSFER: Transfer to the custody of U.S. Marshals or local authority.
317	RELIEVE OVERCROWDING: Transfer to relieve overcrowding at a facility.
318	INCREASE POPULATION: Transfer to build a population, usually upon activation of a new facility.
319	DRUG ABUSE PROGRAM: Transfer to participate in a specialized Drug Abuse Program.
320	WORK/STUDY RELEASE: Discontinued.
321	TRANSFER TO CONTROL UNIT: Transfer to Control Unit (see Chapter 7, Section 4).
322	TRANSFER FROM CONTROL UNIT: Transfer from Control Unit (See Chapter 7, Section 4).
323	CLOSE SUPERVISION CASE: Transfer as a result of an investigation that indicates a safety, security, or escape risk. Includes verified and unverified protection cases.
324	PROGRAM PARTICIPATION: Transfer for a parole hearing or to participate in a specialized program.
325	PROGRAM COMPLETED/WITHDRAWAL/REMOVAL: Return to the original institution following the completion, withdrawal, or removal from a specialized program.
326	CONCURRENT SERVICE IN NON-FEDERAL FACILITY: Transfer to non-federal facility (excluding CCC) for service of concurrent federal and state sentences.
327	BOARDING IN NON-FEDERAL FACILITY: Transfer to non-federal facility (excluding CCC) for service of federal sentences only.

TRANSFER CODES	
CODE	DESCRIPTION
328	RETURN FROM NON-FEDERAL FACILITY: Return from non-federal facility to federal institution for service of federal sentence only.
330	ADJUSTMENT PURPOSES: Transfer for the purpose of placing the inmate in a new setting due to poor institutional adjustment or CIM concerns. This code differs from a 323 Close Supervision Transfer in that an SIS investigation is not normally conducted.
331	TRANSFER FOR MEDICAL TREATMENT: Transfer from general population for the purpose of obtaining medical/physical treatment in a Medical Referral Center. Requires a change to a CARE 4 assignment.
332	MEDICAL TREATMENT COMPLETED: Return from Medical Referral Center to general population after treatment for medical/physical treatment. Requires a change from CARE 4 assignment to a lesser care level assignment.
333	TRANSFER FOR PSYCHOLOGICAL/PSYCHIATRIC EVALUATION: Transfer from general population for the purpose of obtaining psychiatric treatment in a Medical Referral Center. Requires a change to a CARE 4 assignment.
334	PSYCHOLOGICAL/PSYCHIATRIC EVALUATION COMPLETED: Return from a Medical Referral Center to general population after obtaining psychiatric treatment. Requires a change from CARE 4 assignment to a lesser care level assignment.
335	TRANSFER FOR HOSPITALIZATION AND TREATMENT: Transfer between BOP Medical Referral Centers for continued medical/physical or psychiatric treatment. (SPG to BUT). CARE 4 assignment remains intact.
336	HOSPITALIZATION AND TREATMENT COMPLETED: Discontinued (See Code 332).
337	OTHER: This category may be used only when no other transfer code above applies. (DISCONTINUED)
338	DECREASE IN MEDICAL CARE LEVEL: Transfer used when there has been a decrease in the inmate's medical care level and the inmate no longer requires the higher level of medical services. This code is to be used when the transfer occurs between non-MRC institutions and when there is a decrease from the CARE assignments 2 and 3 only.
339	INCREASE IN MEDICAL CARE LEVEL: Transfer used when there has been an increase in the inmate's medical care level and inmate is being transferred for the sole purpose of requiring increased medical resources. This code is to be used when the transfer occurs between non-MRC institutions and when there is an increase from the CARE assignments 1 and 2 only.
369	FACILITY REORGANIZATION: Transfer based on a mission change of the institution.

OFFENSE SEVERITY SCALE

GREATEST SEVERITY
Aircraft Piracy - placing plane or passengers in danger Arson - substantial risk of death or bodily injury Assault - serious bodily injury intended or permanent or life threatening bodily injury resulting) Car Jacking - any Drug Offense - see criteria below* Escape - closed institution, secure custody, force or weapons used Espionage - treason, sabotage, or related offenses Explosives - risk of death or bodily injury Extortion - weapon or threat of violence Homicide or Voluntary Manslaughter - any Kidnaping - abduction, unlawful restraint, demanding or receiving ransom money Robbery - any Sexual offenses - rape, sodomy, incest, carnal knowledge, transportation with coercion or force for commercial purposes Toxic Substances/Chemicals: - weapon to endanger human life Weapons - distribution of automatic weapons, exporting sophisticated weaponry, brandishing or threatening use of a weapon

* Any **drug offender** whose current offense includes the following criteria will be scored in the Greatest severity category:

The offender was part of an organizational network and he or she organized or maintained ownership interest/profits from **large-scale** drug activity,

AND

The drug amount equals or exceeds the amount below:

Cocaine - greater than or equal to 10,000 gm, 10 K, or 22 lb

Cocaine Base "Crack" - greater than or equal to 31 gm

Hashish - greater than or equal to 250,000 gm, 250 K, or 551 lb

Marijuana - greater than or equal to 620,000 gm, 620 K, or 1,367 lb

PCP - greater than or equal to 100,000 mg, 100 gm, or 20,000 dosage units

Heroin or Opiates - greater than or equal to 2,000 gm, 2 K, or 4.4 lb

Methamphetamine - greater than or equal to 16,000 gm, 17 K, or 35 lbs

Other illicit drugs: - Amphetamine, Barbiturates, LSD, etc. greater than or equal to 250,000 dosage units

HIGH SEVERITY

Arson - other

Cruelty to Children - any

Drugs (For Females only)

Cocaine - greater than or equal to 10,000 gm, 10 K,
Or 22 lb

Cocaine Base "Crack" - greater than or equal to 31
gm **Hashish** - greater than or equal to 250,000 gm,
250 K, Or 551 lb

Marijuana - greater than or equal to 620,000 gm, 620 K,
Or 1,367 lb

PCP - greater than or equal to 100,000 mg, 100 gm,
or 20,000 dosage units

Heroin or Opiates - greater than or equal to 2,000 gm,
2 K, or 4.4 lb

Methamphetamine - greater than or equal to 16,000 gm,
17 K, or 35 lb

Other illicit drugs - Amphetamine, Barbiturates,
LSD etc. - greater than or equal to 250,000 dosage
units

Explosives - other

Extortion - other

Involuntary manslaughter - includes vehicular homicide

Residential Burglary - with evidence that occupants were in
dwelling during the commission of the offense

Rioting - any

Sexual Offenses - sexual exploitation of children,
unlawful sexual conduct with a minor, pornography

Stalking - any

Threatening Communications - with conduct evidencing intent to
carry out such threat

Toxic Substances/Chemicals - other

MODERATE SEVERITY

Assault - other
Auto Theft - any
Breaking and Entering - any
Burglary - other
Child Abandonment - any
Contempt of Court - criminal contempt
Drugs Cocaine - greater than or equal to 400 gm, .4 K, or .88 lb
 Cocaine Base "Crack" - greater than or equal to 1 gm
 Hashish - greater than or equal to 11,000 gm, 11 K, or 24 lb
 Marijuana - greater than or equal to 25,000 gm, 25 K, or 55 lb
 PCP - greater than or equal to 4,000 mg, 4 gm, or .14 oz
 Heroin or Opiates - greater than or equal to 80 gm, .08 K, or .18 lb
 Methamphetamine - greater than or equal to 667 gm, .67 K, or 1.47 lb
 Other illicit drugs - Amphetamine, Barbiturates, LSD, etc. greater than or equal to 10,000 dosage units, .05 K, or .11 lb
Escape - walkaway from open institution, failure to appear/bail reform act, no threat of violence involved
Immigration Offenses - transportation of unlawful aliens
Obstruction of Justice - any
Property Offenses - over \$250,000, includes theft, fraud, tax evasion, forgery, currency offenses
Sexual Offenses - other
Weapons - other

LOW-MODERATE SEVERITY

Bigamy - Polygamy
Drugs Cocaine - less than 400 gm, .4 K, or .88 lb
 Cocaine Base "Crack" - less than 1 gm
 Hashish - less than 11,000 gm, 11 K, or 24 lb
 Marijuana - less than 25,000 gm, 25 K, or 55 lb
 PCP - less than 4,000 mg, 4 gm, or .14 oz
 Heroin or Opiates - less than 80 gm, .08 K, or .18 lb
 Methamphetamine - less than 667 gm, .67 K, or 1.47 lb
 Other illicit drugs - Amphetamine, Barbiturates, LSD, etc., less than 10,000 dosage units, .05 K, or .11 lb
Indecent Exposure - indecent acts, lewd behavior
Immigration Offenses - other
Post-Release Supervision Violation - technical, administrative
Property Offenses - valued between \$2,000 and \$250,000)

LOWEST SEVERITY
Drugs - personal use Gambling Law Violation - any Liquor Law Violation - any Property Offenses - less than \$2,000 Suspicion - any Traffic Laws - any Vagrancy - any Vandalism - any

MARIJUANA EQUIVALENT CHART	
DRUG	MARIJUANA EQUIVALENT
1 gm of Heroin	1000 gm
1 gm of Cocaine Powder	200 gm
1 gm of Methamphetamine	2000 gm
1 gm of LSD	100,000 gm
1 gm of "crack" cocaine	20,000 gm
1 gm of Hashish Oil	50 gm
For other drug equivalents, please refer to the U.S. Sentencing Commission Guidelines Manual.	

MEASUREMENT CONVERSION TABLE	
1 oz = 28.35 gm 1 lb = 453.6 gm 1 lb = 0.4536 kg 1 gal = 3.785 liters 1 qt = 0.946 liters	1 cm = 1 ml (liquid) 1 liter = 1,000 ml 1 kg = 1,000 gm 1 gm = 1,000 mg 1 grain = 64.8 mg

DEFINITION OF ROLES INVOLVED IN DRUG OFFENSES

To determine whether an individual involved with a drug offense rose to the level of an organizer or leader, read the "Offense Conduct" section of the Presentence Investigation Report, and any other available information (i.e., Statement of Reasons, U.S. Attorney Report, etc.) to determine what the individual's role was in the criminal activity. The role definitions below are grouped into two categories: Those that rise to the level of organizer/leader; and, those that do not.

ORGANIZER/LEADER

Importer/High-Level Supplier: imports or otherwise supplies large quantities of drugs; is at or near the top of the distribution chain; has ownership interest in drugs (not merely transporting drugs for another individual); usually supplies drugs to other drug distributors and does not deal in retail amounts; may employ no or very few subordinates.

Organizer/Leader: organizes, leads, directs, or otherwise runs a drug distribution organization. Receives the largest share of the profits and has the greatest decision-making authority.

Grower/Manufacturer: grows, cultivates, or manufactures a controlled substance, and is the principal owner of the drugs. (Keep in mind, the intent of this definition is to capture the individual who has the capability to manufacture enormous amounts of drugs in his garage/lab for example, and not the individual who is growing only five marijuana plants in his basement.)

Financier/Money Launderer: provides money for purchase, importation, manufacture, cultivation, transportation, or distribution of drugs; launders proceeds of drug sales or purchases.

Aircraft Pilot/Vessel Captain: pilots vessel or aircraft; requires special skill; does not include inmate who is the only participant directing a small boat (i.e., a speed boat) onto which drugs had been loaded from a "mother ship" (such person is a courier).

NOT A DRUG ORGANIZER/LEADER

Manager: serves as a lieutenant to assist one of the above; manages all or a significant portion of the manufacturing, importation, or distribution operation; takes instructions from one of the above and conveys to subordinates; directly supervises at least one other co-participant in an organization of at least five co-participants.

Bodyguard/Strongman/Debt Collector: provides physical and personal security for another co-participant in the offense; collects debts owed, or punishes recalcitrant persons.

Chemists/Cooks/Chemical Supplier: produces LSD, methamphetamine, crack cocaine, or other illegal drugs, but does not qualify as a Grower/Manufacturer because he/she is not the principal owner of the drugs. Chemical supplier does not handle drugs themselves but engages in the unlawful diversion, sale, or furnishing of listed chemicals or equipment used in the synthesis or manufacturing of controlled substances.

Supervisor: supervises at least one other co-participant, however, has limited authority and does not qualify as a Manager.

Street-Level Dealer: distributes retail quantities directly to the user.

Broker/Steerer/Go-Between: arranges for two parties to buy/sell drugs, or directs potential buyer to a potential seller.

Courier: transports or carries drugs with the assistance of a vehicle or other equipment. Includes situations where individual, who is otherwise considered to be a crew member, is the only participant directing a vessel (e.g., a speed boat) onto which drugs had been loaded from a "mother ship".

Mule: transports or carries drugs internally or on their person, often by airplane, or by walking across a border. Also includes an individual who only transports or carries drugs in baggage, souvenirs, clothing, or otherwise.

Renter/Storer: provides (for profit/compensation) own residence, structures (barns, storage bins, buildings), land, or equipment for use to further the offense. This inmate is distinguished from the enabler because he/she is paid (in some way) for his/her services.

Money runner: transports/carries money and/or drugs to and from the street-level dealer.

Off-loader/Loader: performs the physical labor required to put large quantities of drugs into storage, hiding, or onto some mode of transportation.

Gopher/Lookout/Deckhand/Worker/Employee: performs very limited, low-level function in the offense (whether or not ongoing); includes running errands, answering the telephone, receiving packages, packaging the drugs, manual labor, acting as lookout to provide early warnings during meetings, exchanges, or off-loading, or acting as deckhand/crew member on vessel or aircraft used to transport large quantities of drugs.

Enabler (Passive): plays no more than a passive role in the offense, knowingly permitting a certain unlawful criminal activity to take place without actually being involved with the activity; may be coerced or unduly influenced to play such a function (e.g., a parent or grandparent threatened with displacement from a home unless they permit the activity to take place), or may do so as "a favor" (without compensation).

User Only: possessed small amount of drugs apparently for personal use only; no apparent function in any conspiratorial criminal activity.

Wholesaler: sells more than retail/user-level quantities (greater than one ounce) in a single transaction.

SPECIAL INSTRUCTIONS

In the case of an offense involving marijuana plants, one plant equals 100 grams (or the actual weight of the useable marijuana, whichever is greater).

If the offense includes several types of drugs, compute the marijuana equivalent and total the sum to arrive at a grand total. For example, if the inmate has marijuana, cocaine, and heroin, compute the cocaine and heroin to an equivalent amount of marijuana and hold the inmate accountable for the sum total of the equivalent amount of marijuana.

Offenses not listed will be assigned a severity category according to the most comparable listed offense.

Score any attempt, aiding and abetting, conspiracy, misprision of a felony, and accessory after the fact in the same severity category as the underlying offense. Total offense behavior is to be considered, utilizing the most serious offense or act committed. However, in drug conspiracy cases, the individual will be held accountable as documented by the Judge in the Statement of Reasons. If the Statement of Reasons is not attached, the Case Manager will review the Presentence Investigation Report to determine the individual's specific reported behavior, and not hold the individual accountable for the entire drug conspiracy empire.

If committed as a parole, mandatory release, special parole term, or supervised release violator as a result of a new conviction, use that new offense behavior for scoring "Severity of Current Offense."

If committed as a probation violator, use the most severe documented behavior between the original offense that prompted probation and the new criminal conduct (violation behavior) for scoring "Severity of Current Offense."

For this Program Statement's purposes, sentences with a specific finding of "withheld adjudication" will be considered the same as if the Judge made a finding of guilt.

WAIVER FOR MISDEMEANANTS

I, _____, _____
(Name of Inmate) (Register Number)

have been convicted under _____
(Offense Code and Title)

and committed to the custody of the Attorney General or the Bureau of Prisons for service of a misdemeanor sentence, do hereby waive my right as a misdemeanor offender to serve my sentence in a facility other than a high security level institution. I understand my conviction could entitle me to be placed in a Minimum, Low, or Medium level institution, as deemed appropriate by the Bureau of Prisons; however, I voluntarily waive my right to such placement. I further understand that this waiver does not prevent the Federal Bureau of Prisons from transferring me to a Minimum, Low, or Medium security level institution in the future, if appropriate.

Inmate's Signature

Date

Witness

Witness

STANDARD ABBREVIATIONS/TERMS (BP-337)
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ADW	Assault with a Deadly Weapon
ALC	Alcohol
ATT	Attempt
BRA	Bail Reform Act (constitutes escape)
CC	Concurrent
CC FRD	Credit Card Fraud
COC	Cocaine
CONSP	Conspiracy
CRK	Crack
CS	Consecutive
D/DS	Day/days
DETN	Detainer
DRG	Drug
DUI	Driving under the influence
DWI	Driving while influenced
DWOL	Driving without a License
DWP/DWIP	Dismissed without/with Prejudice
ESS	Execution of Sentence Suspended (If part of the sentence was imposed score as prior. If the entire sentence was suspended, do not count as prior, HOWEVER, if the offense involved escape or violence, score under appropriate history item.)
F/A	Firearm
FTA	Failure to Appear (constitutes escape)
GD	Good
GTA	Grand Theft Auto
H/G	Handgun
HX	History
IR	Incident Report
ISS	Imposition of Sentence Suspended (If part of the sentence was imposed score as prior. If the entire sentence was suspended, do not count as prior, HOWEVER, if the offense involved escape or violence, score under appropriate history item.)
ITSMV	Interstate Transportation of Stolen Motor Vehicle
JTC	Jail Time Credit
LOC	Lack of Cooperation
LOP	Loss of Privileges
M/MOS	Month/months
MH	Mental health
MJ	Marijuana
PBJ	Probation Before Judgment
PC	Pending Charge
PED	Parole Eligibility Date
PLIO	Pled to Lesser Instant Offense
PROB	Probation
PSY	Psychological/Psychiatric
PWITD	Possession with Intent to Distribute
PV	Parole Violation

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STANDARD ABBREVIATIONS/TERMS (BP-337)
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SRV	Supervised Release Violation
TRD	Tentative Release Date
UUV	Unauthorized Use of a Vehicle
VOP	Violation of Probation
WPN	Weapon
Y/YRS	Year/years

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Form 409, **REQUEST FOR TRANSFER/APPLICATION OF MANAGEMENT VARIABLE**
is available on BOPDOCS



**U.S. Department of Justice
Federal Bureau of Prisons**

FOR IMMEDIATE RELEASE

May 22, 2020

Contact: Office of Public Affairs
202-514-6551

BUREAU OF PRISONS ANNOUNCES UPDATE ON INMATE MOVEMENT

Expanded Testing Capabilities to be Deployed for Safe Movement of Recently Sentenced Prisoners

WASHINGTON – The Bureau of Prisons (Bureau) and the United States Marshals Service (USMS) announced today that they will begin movement of approximately 6,800 new inmates who have been committed to the Bureau in recent months.

The Bureau, in coordination with the USMS, has decreased internal movement of inmates by 90% as compared to this time last year. While inmate movement was significantly curtailed for several months, newly sentenced and newly admitted inmates have been held in local detention facilities across the country. As the federal judiciary has continued to process new criminal cases and begins to phase-in expanded operations, the Bureau must, on a limited basis, move these inmates to alleviate population pressures in these local detention centers and allow inmates to begin serving their sentences.

The Bureau and the USMS are coordinating carefully to transport and transfer federal inmates into the Bureau's custody while taking proactive steps, including aggressive testing, to mitigate the transmission of COVID-19 into the federal prison environment. The Bureau will process all newly-sentenced Bureau inmates through one of three quarantine sites - - FCC Yazoo City, MS; FCC Victorville, CA; and FTC Oklahoma City, OK, - - or through a Bureau detention center/jail unit. The Bureau will test all inmates upon arrival at a Bureau detention center/ jail unit or at one of the three quarantine sites. All inmates will be tested again before movement to their designated Bureau facility.

"We believe our proactive approach, including our expanded inmate testing capacity, will aid the Bureau to further combat the introduction and spread of the virus within our prison system," said Bureau of Prisons Director Michael Carvajal. "We are grateful for the continued hard work of all our staff as we manage this pandemic, as well as our partnerships with the Centers for Disease Control and Prevention, local health authorities, the U.S. Marshals Service, and various other community organizations who have teamed up to help."

Movement of an additional 7,000 inmates who are already housed in Bureau facilities and pending regular movement to their designated facilities, will begin at a later date.

Seventy of the Bureau's 122 prison facilities remain unaffected by COVID-19. There are 1594 federal inmates in Bureau facilities and Residential Reentry Centers (RRCs) and 194 Bureau staff who have confirmed positive test results for COVID-19 nationwide. Currently, 3047 inmates and 394 staff have recovered. Since the release of the Attorney General's original memo to Bureau on March 26, 2020 instructing Bureau to prioritize home confinement in response to the COVID-19 pandemic, the Bureau has placed an additional 3,179 inmates on home confinement; an increase of 111 percent.

Find more information about the Bureau's response to COVID-19 at www.bop.gov/coronavirus/index.jsp.

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