



NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION

**CUSTODY CATEGORIES AND CRITERIA
ADMINISTRATIVE REGULATION – 521**

SUPERSEDES: AR 521 (10/15/13); AR 521 (Temporary 11/24/14); AR 521 (05/19/15);
AR 521 (Temporary 08/08/22)

EFFECTIVE DATE: August 30, 2022

AUTHORITY: NRS 209.131; NRS 209.341; NRS 209.351; NRS 209.376; NRS 209.425; NRS 209.427; NRS 209.429; NRS 209.481; NRS 209.4889; NRS 484C.110; NRS 484C.400, NRS 484C.410, NRS 484C.430; NRS 484C.440; NRS 488.420; NRS 488.425; and NRS 488.427; 34 U.S.C. § 30301, et seq. and Federal Register 28, Code of Federal Regulation (CFR) Part 115

RESPONSIBILITY

The Director is responsible for the overall implementation of this Administrative Regulation (AR) through the Deputy Director of Programs who is responsible of the oversight of NDOC's Offender Management system.

The Offender Management Administrator (OMA) is responsible for the operation of NDOC's classification system and for employing the custody categories and criteria contained in this regulation.

The Wardens are responsible for ensuring that the classification process is being applied properly.

In all levels of classification, the mandated *Prison Rape Elimination Act* (PREA) guidelines will be followed in accordance to the PREA standards. Refer to AR 573, PREA Screening and Classification for more information.

521.01 MAXIMUM CUSTODY

1. Maximum custody is a restrictive level of supervision for offenders whose sentence structure, offense or institutional conduct indicates that they represent a potential for violence, escape, or disruption of institutional operations without the controls inherent in maximum custody.

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2. Maximum custody classification criteria includes the following:
 - A. Offenders designated as High-Risk Potential (HRP); and
 - B. Offenders under sentence of death.

 3. Maximum custody conditions of confinement include the following:
 - A. Assignment to institutions with fenced and armed perimeters;
 - B. Assignment to single occupancy cells;
 - C. Confinement to a cell except for scheduled exercise periods, showers, visits, professional interviews and hearings, or telephone calls;
 - D. Direct supervision when offenders are outside their cells;
 - E. Out of cell activities should be limited to separate and secure areas;
 - F. Unclothed body searches on exiting and returning to the housing unit;
 - G. Movement will be in restraint and under escort; and
 - H. Transportation outside the institution will be under restraint, under armed escort, and may include chase vehicles as determined by the Warden. Use of restraints on pregnant offenders will be under the provisions of AR 407 Use of Handcuffs and Restraints, and AR 455 Use of Handcuffs and Restraints on Pregnant Offenders.

521.02 CLOSE CUSTODY

1. Close custody is a restrictive level of supervision for offenders whose offense or institutional conduct indicates that they represent a potential for violence, escape, or disruption of institutional operations without the controls inherent in close custody.

2. Close custody is the custody designation for the general population of a maximum-security institution. Close custody classification criteria includes the following:
 - A. Assignment to specialized housing areas of medium security institutions such as administrative or disciplinary segregation, detention, or disruptive group management;
 - B. Offenders with a history of violence, escape, or conspiracy to escape;
 - C. Offenders whose misconduct indicates that their behavior cannot be controlled at lower custody levels; and

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- D. Offenders who have a guilty finding of any of the following offenses in custody within the preceding twelve (12) months – MJ11 (Kidnapping), MJ14 (Manslaughter), MJ15 (Mayhem), MJ16 (Murder), MJ19 (Sexual Assault/Sexual Abuse).
3. Close custody conditions of confinement include the following:
- A. Assignment to institutions with fenced and armed perimeters;
 - B. Assignment to single cells for administrative or disciplinary segregation or to double cells as authorized by the Director or designee;
 - 1) Decisions on double-housing in restricted housing shall be done as a committee as part of unit team management. A thorough review of the offenders proposed to live together shall be done prior to housing.
 - C. Housing separated from the general population of the institution;
 - D. Direct supervision when outside the housing unit;
 - E. Subject to searches as determined by the Warden;
 - F. Offenders may be restrained during internal movement; and
 - G. Transportation outside the institution will be under restraint, under armed escort, and may include chase vehicles as determined by the Warden. Use of restraints on pregnant offenders will be under the provisions of AR 407 Use of Handcuffs and Restraints, and AR 455 Use of Handcuffs and Restraints on Pregnant Offenders.

521.03 MEDIUM CUSTODY

- 1. Medium custody is for those offenders who represent a threat to escape or engage in misconduct without the controls of a fenced perimeter and who are expected to demonstrate positive institutional adjustment in a general population.
- 2. Medium custody classification criteria includes the following:
 - A. Assignment of offenders who do not represent significant behavioral problems or those who would represent a potential for escape outside the perimeter of an institution; and
 - B. Assignment of offenders who cannot be placed at reduced custody levels based upon statutes, regulation and/or policy.

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3. Medium custody conditions of confinement include the following:
 - A. Institutions with fenced and armed perimeters;
 - B. Direct supervision within the institution;
 - C. Housing in single or double occupancy cells or dormitories;
 - D. The general population of a medium security institution;
 - E. Participation in work and program activities within the perimeter of the institution;
 - F. Searches on a random basis or for cause;
 - G. Movement in general population areas without restraints or escort; and
 - H. Transportation outside the institution will be under restraint and under armed escort. Use of restraints on pregnant offenders will be under the provisions of AR 407 Use of Handcuffs and Restraints, and AR 455 Use of Handcuffs and Restraints on Pregnant Offenders.

521.04 HIGH MINIMUM CUSTODY

1. High Minimum custody is for offenders who represent a limited potential to misbehave or who represent a low risk to escape without the presence of a secure perimeter.
2. Medical, dental, mental health restrictions or disabilities will not be taken into consideration for custody-level classification decisions. Offenders with disabilities shall not be denied for High Minimum custody based on these restrictions or disabilities, and when otherwise eligible for High Minimum custody, shall be approved.
 - A. If an offender with a disability cannot participate in a High Minimum custody program because of a disability, the offender must not be deemed as refusing to apply, participate, or having poor performance in a program under Section 521.04(6)(D). Such an offender will be classified as High Minimum eligible and will be permitted to continue to apply for programs for which a High Minimum custody placement is a requirement. While the offender is awaiting such a program, the offender will, so long as the offender continues to participate in programs based on their custody level and in compliance with AR 658, continue to earn credits as if the offender was participating in a program for which High Minimum custody is a requirement.

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- B. NDOC staff must comply with AR 658 Reasonable Accommodation for Inmates with Disabilities and the offender's eligibility for any custody level for which the offender is otherwise eligible shall not be impacted.
3. Offenders identified as being eligible for High Minimum along with a desire to participate in a program requiring High Minimum custody, shall be reviewed by a Full Classification Committee.
- A. The full classification committee shall be made up of at minimum the Associate Warden, Correctional Casework Specialist III (CCS III), and unit CCS.
 - B. The full classification hearing shall be documented in NOTIS, along with the decision from the committee to either pre-approve or deny placement into the program. The offender shall be given results of the committee's decision.
 - 1) Pre-approved offenders shall have a change classification submitted for review by the Associate Warden or designee at the program location.
 - 2) Offenders that are denied shall be given an opportunity to reapply for the program after six (6) months from the denial.
 - C. The Associate Warden or designee at the program location shall review those pre-approved at the full classification hearing. The Associate Warden shall append the full classification case note with their determination for placement. If approved, the Associate Warden shall have the reclassification submitted for OMD approval.
4. High Minimum custody classification criteria includes the following:
- A. High Minimum offenders must have a Risk Factor Score (RFS) of 15 points or less, and must meet the following criteria:
 - 1) Be within 60 months of possible release from NDOC custody; and
 - 2) Performance of work, school and program responsibilities/duties within the criteria of all outlined expectations.
5. The following criteria will disqualify an offender from High Minimum custody:
- A. An RFS of 10 points or more in Section A of the reclassification instrument;

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- B. The commission of a serious violent major infraction of AR 707 within the immediately preceding 12 months;
 - C. The commission of any major infraction to include a violent general or work infraction of AR 707 within the immediately preceding 6 months;
 - D. Conviction for sexual offense that is punishable as a felony. NRS 209.481(d);
 - 1) A DOC 2070 form (Notice of Sex Offender Classification) advising of discretionary preclusion from high minimum classification consideration:
 - a) Sexual misconduct in the current offense;
 - b) Prior conviction with known sexual misconduct; or
 - c) A prior sexual offense adjudicated as a minor.
 - E. Conviction for a crime involving the use or threatened use of force or violence against a victim that is punishable as a felony within the immediately preceding 12 months from the date of conviction. NRS 209.481(e);
 - F. Any attempted or actual escape from an NDOC institution. NRS 209.071;
 - G. Felony conviction for the escape or attempted escape from a prison or jail classified at medium custody or above;
 - H. Felony conviction for the escape or attempted escape from a jail or facility classified at minimum custody or below within the preceding 60 months;
 - I. Current felony hold or detainer;
 - J. Sentenced to death or life without the possibility of parole; or
 - K. Concurrent or consecutive non-NDOC felony sentences.
6. High Minimum discretionary exclusions for high minimum custody include the following:
- A. Youthful offender;
 - B. Disciplinary record;
 - C. Violent offender;

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- D. Refusal to apply or participate in a program, or poor performance in a program for which High Minimum custody is a requirement; and
 - E. Other relevant factors such as discretionary decisions shall be documented in the offender's case notes.
7. High Minimum custody conditions of confinement include the following:
- A. Assignment to facilities with fenced and armed perimeters;
 - B. Assignment to double-occupancy or dormitory housing;
 - C. Access to the interior and exterior portions of institutions;
 - D. Intermittent supervision at least every 20 minutes, or occasional personal or telephonic contact on work assignments from transition centers;
 - E. Searches on a random basis, for cause, and upon returning from work assignments outside the facility;
 - F. Transportation without restraint and without armed escort in a state or emergency vehicle; and
 - G. Work supervision by an employee trained in the supervision of offenders.

521.05 MINIMUM CUSTODY

1. Minimum custody is for offenders who represent a limited potential to misbehave or who represent a low risk to escape without the presence of a secure perimeter.
2. Medical, dental, mental health restrictions or disabilities will not be taken into consideration for custody level classification decisions. Offenders with disabilities shall not be denied for minimum custody based on these restrictions or disabilities and when otherwise eligible for minimum custody shall be approved.
 - A. Those offenders with disabilities including medical conditions, mental health, mobility impairments and medical treatment needs may be otherwise eligible for minimum custody. Some offenders with disabilities may need to be submitted for placement at minimum custody at an institution when it is necessary to provide them with equally effective aids, benefits, or services or pursuant to a legitimate safety requirement or Direct Threat determination defined by AR 658.01.8. .
3. Minimum custody classification criteria includes the following:
 - A. Offenders must meet the following criteria to qualify to minimum custody:

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- 1) Have a total risk factor score (RFS) of 13 points or less;
 - 2) Be within 48 months of possible release from NDOC custody;
and
 - 3) Have performed assigned work, school, and program duties within outlined expectations.
4. The following criteria will disqualify an offender from minimum custody:
- A. An RFS of 10 points or more in Section A of the reclassification instrument;
 - B. The commission of a serious violent major infraction of AR 707 within the immediately preceding 12 months;
 - C. The commission of any major infraction to include a violent general or work infraction of AR 707 within the immediately preceding 6 months;
 - D. Conviction for a sexual offense that is punishable as a felony. NRS 209.481(d);
 - E. A DOC 2070 form (Notice of Sex Offender Classification) advising of discretionary preclusion from minimum classification consideration;
 - 1) Sexual misconduct in the current offense;
 - 2) Prior conviction with known sexual misconduct; or
 - 3) A prior sexual offense adjudicated as a minor.
 - F. Conviction for a crime involving the use or threatened use of force or violence against a victim that is punishable as a felony within the immediately preceding 12 months of the date of conviction. NRS 209.481(e);
 - G. Any attempted or actual escape from an NDOC institution. NRS 209.071;
 - H. Felony conviction for the escape or attempted escape from prison, jail or facility classified as minimum custody or below within the immediately preceding 60 months;
 - I. Felony conviction for the escape or attempted escape from a prison or jail classified at medium custody or above;
 - J. Current felony hold or detainer;

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- K. Sentenced to death or life without the possibility of parole; or
 - L. Concurrent or consecutive non-NDOC felony sentences.
5. The following are discretionary exclusions for minimum custody:
- A. Youthful offender;
 - B. Disciplinary record;
 - C. Violent offender;
 - D. Other relevant factors such as discretionary decisions shall be documented in the offender's case notes; and
 - E. DUI Exception:
 - 1) Offenders serving DUI sentences under NRS 484C.400, 484C.410, 484C.430, 484C.440, 488.420, 488.425 and 488.427 who have no non-DUI offenses as part of their sentence structure are exempt from the 48 months to possible release criteria.
6. Minimum custody conditions of confinement include the following:
- A. Assignment to facilities without secure perimeters such as camps and transition centers;
 - B. Assignment to double occupancy or dormitory housing;
 - C. Access to the interior and exterior portions of institutions and facilities;
 - D. Intermittent supervision at least every 20 minutes, or occasional personal or telephonic contact on work assignments from transition centers;
 - E. Searches on a random basis, for cause, and upon returning from work assignments outside the facility;
 - F. Transportation without restraint and without armed escort in a state or emergency vehicle; and
 - G. Work supervision by an employee trained in the supervision of offenders.

521.06 COMMUNITY TRUSTY

1. Community Trusty custody is for those offenders who represent a limited potential to misbehave and represent a low risk to escape while assigned to employment within the community. Community Trusty custody offenders are allowed movement for the purpose of a work assignment outside of a secured perimeter without direct supervision.
2. Medical, dental, or mental health restrictions or disabilities will not be taken into consideration for custody level classification decisions. Offenders with disabilities shall not be denied for community trusty custody based on these restrictions or disabilities and when otherwise eligible for Community Trusty custody shall be approved.
 - A. Those offenders with disabilities including medical conditions, mental health, mobility impairments and medical treatment needs may be otherwise eligible for community trusty custody. Some offenders with disabilities may not be placed at community trusty custody facility when it is necessary to provide them with equally effective aids, benefits, or services or pursuant to a legitimate safety requirement or Direct Threat determination defined by AR 658.01.8.
3. Community Trusty (CT) classification criteria includes the following:
 - A. Candidates for CT must be eligible for minimum custody per AR 521.04;
 - B. CT offenders must have a RFS of 11 points or less;
 - C. No offender may be assigned to CT if they have ever been convicted of any escape;
 - D. No offender may be assigned to CT if they have been convicted of any sex offense;
 - E. Failure to appear or absconding from parole or probation is not an automatic barrier to CT. Such cases will be evaluated on an individual basis;
 - F. Offenders who are assigned to CT must be within twenty-four (24) months of possible release to the community on parole or discharge;
 - G. No offenders can be assigned to CT custody if they have a conviction for a felony involving the use or threat of violence within the last three (3) years;

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- H. Offenders cannot have a conviction for a violent major infraction of AR 707 within the last five (5) years;
 - I. Offenders cannot have been previously convicted of a serious violation of AR 707 in the last six (6) months;
 - J. All final CT classification approval considerations will be reviewed and approved or denied by the Offender Management Division classification staff;
 - K. No offender sentenced with instant offense violence or any felony offense involving violence or threats of violence toward a victim being served under the same booking number as the instant offense will be considered for CT placement;
 - L. Other discretionary factors may be utilized for CT approval/denial consideration. Such discretionary decisions will be documented in the inmate's case notes;
 - M. Failure of CT, including Residential Confinement, is an exclusion to future CT eligibility on the active booking; and
 - N. DUI Exception:
 - 1) Offenders serving DUI sentences under NRS 484C.400, 484C.410, 484C.430, 484C.440, 488.420, 488.425 and 488.427 who have no non-DUI offenses as part of their sentence structure may be reviewed for CT at minimum custody facilities on a case-by-case basis when within 36 months to release.

4. Community Trusty (CT) conditions of confinement include the following:

- A. Offenders assigned to CT may be assigned to facilities without perimeters or towers;
- B. Housing of CT offenders may be in single or double occupancy cells or in dormitory type housing areas;
- C. CT offenders when authorized may access the interior and exterior portions of any institution or facility of the department;
- D. Staff supervision of CT offenders may be intermittent and on the job site;

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- E. The frequency of CT offender supervision by non-NDOC staff may be intermittent and based on the location and type of work in which the offender is engaged;
 - F. CT offenders are subject to random searches within the confines of their assigned facility;
 - G. Staff and non-NDOC supervisors may require random searches or searches for cause;
 - 1) Searches of offenders will only be conducted by NDOC staff in accordance with applicable Administrative Regulations and PREA requirements.
 - H. CT offenders should be searched upon return to their facility from work areas outside of the institution;
 - I. CT offenders are not required to be restrained during transportation activities outside of their assigned facilities; and
 - J. CT offenders may be transported by any state employee in a state vehicle or by non-state employees in a private vehicle used during the course of authorized work activities.

521.07 REQUESTED VARIABLES

1. When deemed appropriate, a discretionary management variable may be applied to increase or decrease an offender's custody level. Consideration for the use of either variable will be from the recommendation of a Full Classification Committee. The reasons for applying a management variable are to be documented in a reclassification case note within NOTIS. Types of discretionary management variables include:
 - A. Institutional Adjustment Variable: When an offender scores close custody or medium custody but has no violent or serious major disciplinary history in the preceding 12 months, an institutional adjustment variable can be applied, and the offender's custody level decreased. Also, if an offender scores medium custody or lower but has been found guilty of a violent or serious major disciplinary infraction, an institutional adjustment variable may be applied, and the offender's custody increased to close. Offenders who commit murder while incarcerated are never to be considered for an institutional adjustment variable custody reduction from close. Offenders who commit murder while incarcerated are never to be considered for an institutional adjustment variable custody reduction on a guilty MJ16 Murder from close custody.

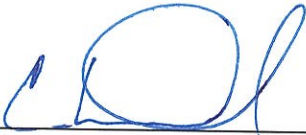
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- B. Administrative Variable: On a case-by-case basis, the Director or Offender Management Administrator may approve to decrease an offender's custody level as long as the decrease adheres with Nevada Revised Statutes.

APPLICABILITY

1. This AR requires an Operational Procedure within the Offender Management Division as well as institutions/facilities.
2. This AR requires an audit.

REFERENCES

ACA Standards 5th Edition 5-ACI-4B-31, 5-ACI-5B-07, 5-ACI-5F-03



Charles Daniels, Director



Date