

**NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
521**

CUSTODY CATEGORIES AND CRITERIA

Supersedes: AR 521 (10/15/13); and AR 521 (Temporary, 11/24/14)

Effective date: 05/19/15

AUTHORITY: NRS 209.131; 209.376, 209.341; 209.351; 209.425; 209.427; 209.429; 209.481; 209.4889; 484C.110; NRS 484C.400, 484C.410, 484C.430, 484C.440, 488.420, 488.425 and 488.427; § 15601, *et seq.* and Federal Register 28 CFR Part 115

RESPONSIBILITY

1. The Offender Management Administrator is responsible for the operation of NDOC's classification system and for employing the custody categories and criteria contained in this regulation.
2. The Wardens are responsible for the classification process.
3. 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 the designated status for administrative or disciplinary segregation or disciplinary detention for close custody inmates.
 - A. Classification of maximum custody inmates is governed by segregation guidelines in AR 506, Reclassification Schedule, and AR 507, Administrative Segregation.
2. Maximum custody characteristics include the following:
 - A. Assignment to institutions with fenced perimeters and gun towers.
 - 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 inmates 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.
- 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 inmates will be under the provisions of AR 407, Use of Handcuffs and Restraints, and AR 455, Use of Handcuffs and Restraints on Pregnant Inmates.

3. Maximum custody criteria include the following:

- A. Inmates designated as high risk potential (HRP).
- B. Inmates under sentence of death.

521.02 CLOSE CUSTODY

1. Close custody is a restrictive level of supervision for inmates 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 characteristics include the following:

- A. Assignment to institutions with fenced perimeters and gun towers.
- B. Assignment to double or single cells in protective segregation.
- C. Assignment to single cells for administrative or disciplinary segregation or to double cells as authorized by the Director or designee.
- D. Housing separated from the general population of the institution.
- E. Direct supervision when outside the housing unit.
- F. Subject to searches as determined by the Warden.
- G. Inmates may be restrained during internal movement.
- 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 inmates will be under the provisions of AR 407, Use of Handcuffs and Restraints, and AR 455, Use of Handcuffs and Restraints on Pregnant Inmates.

3. Close custody criteria include the following:

- A. Assignment to specialized housing areas of medium security institutions such as administrative or protective segregation, or disciplinary segregation, detention, or disruptive group management.
- B. Close custody is the custody designation for the general population of a maximum security institution.
- C. Evaluation and control of inmates for not less than one year when the inmate is serving a cumulative minimum sentence(s) of 20 years or more.
- D. Evaluation and control of inmates for not less than two years for each sentence when the inmate is serving a sentence of life without the possibility of parole.
- E. Inmates with a history of violence, escape, or conspiracy to escape.
- F. Inmates whose misconduct indicates that their behavior cannot be controlled at lower custody levels.

521.03 MEDIUM CUSTODY

1. Medium custody is for those inmates who would 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 characteristics include:

- A. Institutions with fenced perimeters and gun towers or perimeter patrols.
- 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.
- H. Transportation outside the institution will be under restraint and under armed escort. Use of restraints on pregnant inmates will be under the provisions of AR 407, Use of Handcuffs and Restraints, and AR 455, Use of Handcuffs and Restraints on Pregnant Inmates.

3. Medium custody criteria include:

- A. Assignment of inmates who do not represent significant behavioral problems or those who would represent a potential for escape outside the perimeter of an institution.
- B. Assignment of inmates who cannot be placed at reduced custody levels due to law or policy.

521.04 MINIMUM CUSTODY

1. Minimum custody is for inmates who represent a limited potential to misbehave or who represent a low risk to escape without the presence of a secure perimeter.

2. Minimum custody characteristics 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.
- G. Work supervision by an employee trained in the supervision of inmates.

3. Minimum custody criteria include:

A. Inmates must meet the following criteria to qualify to minimum custody:

- (1) Have a total risk factor score (RFS) of 13 points or less.
- (2) Be within 36 months of probable release from NDOC custody.
- (3) Have performed assigned duties in a faithful or orderly manner.

B. The following criteria will disqualify an inmate from minimum custody:

- (1) An RFS of 10 points or more in Section A of the reclassification instrument.

(2) The commission of a serious violent major infraction of AR 707 within the immediately preceding 12 months.

(3) The commission of any major or work infraction of AR 707 within the immediately preceding 6 months.

(4) Having ever been convicted of a sexual offense that is punishable as a felony.

a. If arrested for two or more sexual offenses arising from separate incidents, and/or convicted as an adult, or adjudicated guilty as a minor, for a felony offense allegedly involving sexual misconduct, the inmate is to be issued a DOC 2070 form advising of discretionary preclusion from minimum and community trustee classification consideration.

(5) Having ever been convicted of a felony crime for any offense involving the intended death of any victim. For clarification purposes, this preclusion should only be used if the victim(s) actually died. If there was no death, inmates may still be precluded from minimum custody, but it would be a discretionary preclusion due to "Violent Offender" (see section C below); and not for "intended death of the victim."

(6) Having been convicted of 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.

(7) Having ever attempted to escape or have ever escaped from an NDOC institution, from an NDOC facility, or from an NDOC community supervision program.

(8) Having ever been convicted of a felony for the escape or attempted escape from any medium custody or above prison or jail.

(9) Having ever been convicted of a felony for the escape or attempted escape from any minimum custody or below prison, jail or facility within the immediately preceding 120 months.

(10) Having a current felony detainer lodged against them.

(11) Having a death or life without the possibility of parole sentence.

(12) Requiring protective segregation.

(13) Serving a disciplinary segregation or disciplinary detention sanction.

C. The following are discretionary exclusions for minimum custody:

(1) Youthful inmate

- (2) Medical, dental or mental health concerns
- (3) Other agency escape charges
- (4) Disciplinary record
- (5) Violent Offender
- (6) Felony Hold
- (7) Concurrent or consecutive non-NDOC sentences.
- (8) Other relevant factors

D. The following are exceptions to criteria used in determining minimum custody:

- (1) Inmates 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 36 months to probable release criteria.
- (2) Inmates with a RFS of 14 or more points can be considered for minimum custody on a case by case basis but will require an override from the OMA prior to approval.

E. Staff may consider the following when evaluating inmates for minimum custody:

- (1) Staff should conduct a post-disciplinary review of minimum custody inmates after a disciplinary finding for a serious infraction or for an infraction that could raise the inmate's RFS to 14 points or more, to determine the appropriateness of retaining the inmate at a minimum custody level.
- (2) If the determination is to not increase the inmate's custody level, an override is required from the OMA or OMA's designee. This override will be documented in NOTIS.
- (3) If the determination is to increase the inmate's custody level, staff must immediately treat the inmate at the recommended custody level and reclassify accordingly.
- (4) No inmate with a computed custody of close will be assigned to minimum custody.

521.05 COMMUNITY TRUSTEE

1. Community Trustee (CT) characteristics include the following:

- A. Inmates assigned to CT may be assigned to facilities without perimeters or towers.

- B. Housing of CT inmates may be in single or double occupancy cells or in dormitory type housing areas.
- C. CT inmates when authorized may access the interior and exterior portions of any institution or facility of the department.
- D. Staff supervision of CT inmates may be intermittent and on the job site.
- E. The frequency of CT inmate supervision by non-NDOC staff may be intermittent and based on the location and type of work in which the inmate is engaged.
- F. CT inmates 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 inmates will only be conducted by NDOC staff in accordance with applicable Administrative Regulations and PREA requirements.
- H. CT inmates should be searched upon return to their facility from work areas outside of the institution.
- I. CT inmates are not required to be restrained during transportation activities outside of their assigned facilities.
- J. CT inmates 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.

2. The following are CT criteria:

- A. Candidates for CT must be eligible for minimum custody per AR 521.04.
- B. CT inmates must have a RFS of 11 points or less.
- C. No inmate may be assigned to CT if they have ever been convicted of any escape.
- D. No inmate 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. Inmates who are assigned to CT must be within twenty four (24) months of probable release to the community on parole or discharge.
- G. No inmates 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.

H. Inmates cannot have a conviction for a violent major infraction of AR 707 within the last five years.

I. Inmates cannot have been previously convicted of a serious violation of AR 707 in the last six (6) months.

J. Inmates 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 possible release.

K. All final CT classification approval considerations will be reviewed and approved or denied by Offender Management classification staff.

L. No 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.

M. Other discretionary factors may be utilized for CT approval/denial consideration. Such discretionary decisions will be documented in the inmate's case notes.

521.06 RESIDENTIAL CONFINEMENT

1. Assignment to residential confinement and work programs are defined in AR 523, Residential Confinement Programs.

521.07 TRANSITIONAL CENTERS

1. Assignment to Transitional Centers is defined in AR 543, Transition Centers.

APPLICABILITY

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

2. This AR requires an audit.



Director



Date