



U.S. Department of Justice
Federal Bureau of Prisons

North Central Regional Office

Office of the Regional Director

Kansas City, KS 66101

November 2, 2007

MEMORANDUM FOR REGIONAL DIRECTORS

FROM:


Michael K. Nalley
Regional Director, North Central Region

SUBJECT:

ADX Florence General Population Referral
Procedures

This memorandum provides instructions on new procedures for referring inmates to the general population unit at the Administrative Maximum (ADX-GP) in Florence, Colorado. These new procedures will promote consistency and efficiency in determining which inmates should be placed at ADX-GP. The procedures will be implemented effective January 1, 2008. For further instructions or questions, please contact Charles Williams, North Central Correctional Services Administrator, at (913) 551-1046, Joetta Terrell, Discipline Hearing Administrator, at (913) 551-1033, or Rick Schott, North Central Regional Counsel, at (913) 551-1004.

Criteria and Factors

The Regional Director, North Central Region, has the discretion to place inmates into ADX-GP. This facility operates under conditions of confinement commensurate with the security needs of inmates meeting the necessary placement criteria. Placement at ADX-GP is guided by the Bureau's Program Statement 5100.08, Inmate Security Designation and Custody Classification.

In addition to the general guidance provided in the above referenced program statement, inmates referred to ADX-GP must meet one or both of the following criteria: (1) the inmate's conduct in other correctional institutions creates a risk to institutional security and good order, poses a risk to the safety of staff, inmates or others, or to public safety, or (2) as a result of the inmate's status either before or after incarceration, the inmate may not be safely housed in the general population of a regular correctional facility.

ADX FLORENCE REFERRAL PROCEDURES

Page 2

November 2, 2007

The factors to be considered when determining whether inmates meet one or both of the above-referenced ADX-GP criteria are included with this memorandum as Attachment A - ADX Florence General Population Referral Criteria. Any such factors should be established by reliable evidence including, but not limited to findings by a Bureau Discipline Hearing Officer or other fact finder, substantial reports of the inmate's behavior, statements of the inmate, or other reliable evidence.

As you have done in the past, I request that you provide a detailed assessment of any factors that you considered in making your referral. Additionally, your assessment of why ADX-GP placement is appropriate should be articulated.

Procedures

Procedurally, I am requiring additional steps be taken to supplement the current designation process. The additional steps are attached to this memorandum as Attachment B - Administrative Procedures for Transfer to the ADX Florence General Population. Generally, the procedures involve the appointment of a Hearing Administrator, a notice of hearing to the inmate, a hearing that provides the inmate an opportunity to make an oral statement and provide documentary evidence, and a written statement of the reason(s) for transfer to ADX-GP, if such transfer is recommended.

Staff in the North Central Region will continue to process referrals from all Bureau of Prisons institutions utilizing the procedures outlined in the Bureau's policy on Inmate Security Designation and Custody Classification.

ATTACHMENT A

**ADX FLORENCE-GENERAL POPULATION
REFERRAL CRITERIA**

Placement at ADX Florence-General Population (ADX-GP) will ordinarily be considered for inmates when (1) the inmate's conduct in other correctional institutions creates a risk to the institutional security and good order, poses a risk to the safety of staff, inmates or others, or to public safety, or (2) as a result of the inmate's status either before or after incarceration, the inmate may not be safely housed in the general population of a regular correctional facility. The following factors have been found sufficient to warrant consideration for such placement:

- (1) The inmate is subject to restrictive conditions of confinement as a result of a Special Administrative Measure (28 C.F.R. §§ 501.2 and 501.3) or based on documented reliable information from a government agency that the inmate was convicted of, charged with, associated with, or in any way linked to terrorist activities and as a result of such, presents national security management concerns which can not adequately be met in an open population institution.
- (2) The inmate is subject to restrictive conditions of confinement after being convicted of any offense and the sentencing judge has imposed restrictions on contacts by the convicted person pursuant to 18 U.S.C. § 3582(d) or similar statute.
- (3) The inmate engaged in any conduct that is prohibited by any federal law or state law in the facility where the inmate is housed.
- (4) The inmate has committed two 100 or 200 level prohibited acts within the last 60 months.
- (5) After being validated as a member of a Disruptive Group, the inmate committed any 100 level prohibited act.
- (6) The inmate has been identified as participating in, organizing, or facilitating any group misconduct that adversely affected the orderly operation of a correctional facility, (including lock-down of an entire facility or any unit therein).
- (7) The inmate engaged in any behavior outlined above, while confined in a correctional facility other than an open population setting, and as a result of the severity of the behavior, it is determined that the inmate would be unable to function in a less restrictive correctional environment without being a threat to others or to the secure and orderly operation of a less secure correctional facility.
- (8) The inmate has notoriety to the extent that the inmate's well being would be jeopardized in a less secure environment.
- (9) The inmate has access to resources within a correctional environment or in the community to the extent housing the inmate in less secure conditions, poses a heightened probability of effecting an escape.

ATTACHMENT B

**ADMINISTRATIVE PROCEDURES FOR TRANSFER TO THE
ADX FLORENCE-GENERAL POPULATION**

Institutional Level Referral

- *Referral.* An inmate may be referred to the ADX Florence- General Population (ADX-GP). Inmates referred to this facility must meet one or both of the following criteria: (1) the inmate's conduct in other correctional facilities creates a risk to institutional security and good order, poses a risk to the safety of staff, inmates or others, or to public safety, or (2) as a result of the inmate's status either before or after incarceration, the inmate may not be safely housed in the general population of a regular correctional facility.
- *Referral to Warden.* Institution staff will utilize the referral process detailed in the Bureau policy concerning Inmate Security Designation and Custody Classification, (5100.08). The person initiating the request for placement shall submit a referral packet to the Warden at the institution where the inmate is located.

Regional Level Referral

- *Referral to Sending Region.* After review of all available information, if the Warden agrees with the referral, the referral packet will be submitted to the Regional Director in the region where the inmate is located (sending region).
- *Referral to North Central Region.* If the sending Regional Director agrees with the referral, the referral will be submitted to the Regional Director, North Central Region.

Hearing Administrator and Notice

- *Designation of Hearing Administrator.* North Central Regional Staff will conduct an initial assessment of the inmate's need for placement in the ADX Florence-GP. If further consideration is warranted, the North Central Regional Office will designate a Hearing Administrator to review the referral material and conduct a hearing into the appropriateness of this placement.
- *Hearing Administrator.* The Hearing Administrator will have correctional experience, including institutional work with inmates, institutional experience in observing and evaluating inmate adjustment and disruptive behavior, and knowledge of the options available in the Bureau of Prisons (Bureau) for dealing with such conduct. The Hearing Administrator will not have had any former personal involvement in any institution discipline action involving the particular inmate. The Hearing Administrator will be familiar with Bureau policies and operations, including the criteria for placement of inmates in different institutions and in a control unit.

ATTACHMENT B, Continued

- *Notice to Referring Institution.* The Hearing Administrator will contact the recommending institution's Warden to arrange a time and date for the hearing. The hearing may be conducted via video conferencing, teleconference, at the institution housing the inmate, or any other location as determined by the Hearing Administrator.
- *Notice to Inmate.* The Hearing Administrator will prepare the Notice of Hearing on Referral to the Administrative Maximum-General Population (Notice) and send the Notice and a copy of these procedures to the institution. Institution staff should provide the inmate with the Notice at least 24 hours prior to the hearing. If an inmate is illiterate, staff shall explain the Notice and these procedures to the inmate and document the date and time the inmate receives the notice.
- *Content of Notice.* The Notice will advise the inmate of the specific conduct or other evidence which forms the basis for a recommendation that the inmate be placed in the ADX-GP, unless such evidence would endanger staff or others.

The Hearing

- *Inmate Appearance.* The inmate will have the opportunity to be present throughout the hearing, except where institutional security and good order is jeopardized. The hearing may be conducted via video conferencing, teleconference, or in person at the inmate's current institution, or at any other location determined by the Hearing Administrator. The Hearing Administrator may conduct a hearing in the absence of the inmate when the inmate refuses to appear. The Hearing Administrator will document any refusal to appear, or other reason for nonappearance, in the record of the hearing.
- *Oral Statement/Evidence.* The inmate will have the opportunity to make an oral statement to the Hearing Administrator. The inmate may also present documentary evidence. Evidence presented must be material and relevant to the issue without posing a threat to staff or others, to the orderly operation of the institution, or public safety.

Hearing Administrator's Recommendation

- *Written Report.* At the conclusion of the hearing, and following review of all material related to the recommendation for placement in ADX-GP, the Hearing Administrator shall prepare a written recommendation as to whether placement in the ADX-GP is warranted. The recommendation will summarize all information presented upon which the recommendation is based and indicate the specific reasons for the recommendation, to include a description of the conduct or event, or series of conduct or events, and evidence. The description must be sufficiently detailed.

ATTACHMENT B, Continued

- *Inmate Notice.* The inmate shall be advised in writing of the recommendation. The inmate shall receive all of the information utilized by the Hearing Administrator in making his or her recommendation, unless it is determined that release of this information could pose a threat to individual safety or institutional security, in which case that limited information may be summarized and withheld. The date and time the inmate receives the written recommendation, and the name and signature of the staff member notifying the inmate, will be recorded on the recommendation and all copies.
- *Referral to North Central Region.* The Hearing Administrator will send the recommendation with supporting documentation to the Regional Director, North Central Region. Ordinarily, this is done within 20 working days after conclusion of the hearing.

North Central Region Review

- *Regional Director Review.* The Regional Director, not to be delegated below the Deputy Regional Director, shall review the recommendation and supporting documentation of the Hearing Administrator. The Regional Director or his designee shall accept or reject the Hearing Administrator's recommendation within 60 calendar days of its receipt, unless for good cause there is a reason for delay, which shall be documented in the record.
- *Decision.* The Regional Director, North Central Region, shall provide a copy of his or her decision to the Warden of the institution to which the inmate is to be transferred, to the inmate, to the referring Warden and region, and to the Hearing Administrator. The referring region's copy is sent to the respective Regional Director.
- *Notice to Inmate.* The Regional Director, North Central Region, will send the inmate's copy in care of the Warden, who will insure it is delivered to the inmate. The date and time the inmate receives the written decision, and the name and signature of the staff member notifying the inmate, will be recorded on the notification and all copies.
- *Designation Status.* If an inmate is approved for placement in the ADX-GP, the ADX Warden will place the inmate on a waiting list and will notify the referring Warden when housing is available.

Final Decision Appeal

- *Appeal.* The inmate will be advised of the opportunity to appeal a decision of the Regional Director, North Central Region, through the Administrative Remedy Procedure, directly to the Office of General Counsel, HOLC Building, 320 First Street N.W., Washington, D.C., 20534.