



Program Statement

OPI: CPD
NUMBER: 5212.07
DATE: 2/20/2001
SUBJECT: Control Unit Programs

1. [PURPOSE AND SCOPE §541.40

a. In an effort to maintain a safe and orderly environment within its institutions, the Bureau of Prisons operates control unit programs intended to place into a separate unit those inmates who are unable to function in a less restrictive environment without being a threat to others or to the orderly operation of the institution. The Bureau of Prisons provides written criteria for the:

- (1) Referral of an inmate for possible placement within a control unit;
- (2) Selection of an inmate for placement within a control unit;
- (3) Regular review of an inmate while housed in a control unit; and,
- (4) Release of an inmate from a control unit.]

Correctional institutions occasionally experience disruptions of regular activities by individual or small groups of inmates. Programs that serve the vast majority, such as industries, education, and vocational training, are made less effective by violence, threats of violence, and major security breaches. To protect the majority of inmates and still fulfill the Bureau's obligation to provide safekeeping, care, and subsistence to those who are violent and disruptive, special programs are needed.

Ordinary techniques for segregation or transfer have provided a means of separating some disruptive inmates in the past. However, they have proven ineffective with others. Established segregation programs for short periods of restriction are not

[Bracketed Bold - Rules]

Regular Type - Implementing Information

satisfactory for inmates who need a longer period of control and supervisory care. Their inability to be safely placed into the population of other institutions precludes regular transfer.

[b. The Bureau of Prisons provides an inmate confined within a control unit the opportunity to participate in programs and activities restricted as necessary to protect the security, good order, or discipline of the unit.]

2. SUMMARY OF CHANGES. The following are highlights of changes to this Program Statement:

a. References to psychiatrist and psychiatric evaluation or report was changed to psychologist or psychological throughout the program statement.

b. Section 2, Summary of Changes, was added.

c. Section 6.c.(1) clarifies the requirement for mental health, medical, and dental evaluations prior a control unit referral. It also requires that an inmate's refusal to cooperate with a mental health evaluation be documented.

d. Section 11.e.(2) was revised to enact the prohibition of the purchase of weight training equipment for inmates.

e. Section 14.b. requires medical staff to review an inmate's medical record prior to granting an inmate's request for a X-ray in lieu of a digital search to detect contraband. The clause, "no more than two abdominal X-rays per year for non-medical purposes," was removed.

f. Section 15.a. clarifies the requirements for the unit team during 30 day reviews. They must have the collected daily activity data and the mental health assessment report. In addition, a personal interview with the inmate is to be conducted.

3. PROGRAM OBJECTIVES. The expected results of this program are:

a. A safe and orderly institutional environment will be enhanced by placing predatory and assaultive inmates in a control unit setting.

b. Appropriate referral information will be prepared and forwarded to the Regional Director and Hearing Administrator for each inmate referred for control unit placement.

c. Services will be available to control unit inmates.

d. Each inmate in a control unit will have a periodic status review and be advised of the projected duration of control unit confinement.

e. Each inmate who returns to a control unit after coming into contact with the public will be searched.

4. DIRECTIVES AFFECTED

a. Directive Rescinded

PS 5212.06 Control Unit Programs (8/29/95)

b. Directives Referenced

PS 1330.11 Administrative Remedy Procedure for Inmates
(10/29/93)

PS 5265.11 Correspondence (7/9/99)

PS 5270.07 Inmate Discipline and Special Housing Units
(12/29/87)

PS 5521.05 Searches of Housing Units, Inmates, and
Inmate Work Areas (6/30/97)

PS 6000.05 Health Services Manual (9/15/96)

c. Rules cited in this Program Statement are contained in 28 CFR 541.40-50.

5. STANDARDS REFERENCED. None

6. INSTITUTION REFERRAL §541.41

a. The Warden shall submit a recommendation for referral of an inmate for placement in a control unit to the Regional Director in the region where the inmate is located.]

The written request to the Regional Director will include:

(1) A referral memorandum stating the basis for recommendation.

(2) Copies of all DHO reports, misconduct reports, and investigative materials related to the specific acts that prompted the recommendation. Copies of other relevant materials must also be forwarded.

(3) A copy of an up-to-date progress report that includes the latest incidents of misconduct.

(4) A copy of the pre-sentence investigation.

(5) A copy of an up-to-date mental health report that includes identifying information such as:

- # the inmate's name,
- # place of birth,
- # age, and
- # current sentence.

The reason for the control unit referral must be included in this report. In addition, the mental health report will include a discussion (not a one-word response) of relevant background material, including:

- # the inmate's family,
- # medical,
- # sexual,
- # education activities and work,
- # drug and alcohol use,
- # military,
- # criminal and legal,
- # mental health history, and
- # the inmate's view of his or her crime.

The psychologist will discuss the inmate's mental status and provide a diagnostic impression written so that the Hearing Administrator and Executive Panel can understand clearly the inmate's mental health history and present condition. The mental health report will conclude with the psychologist's findings as to:

- # medication,
- # expected future behavior, and
- # the need for follow-up reviews.

(6) A copy of an up-to-date medical (including dental) report.

(7) A memorandum signed by the Health Services Administrator indicating whether there are any medical/dental problems that preclude placement in a control unit.

[b. The Warden shall consider the following factors in a recommendation for control unit placement:

(1) Any incident during confinement in which the inmate has caused injury to other persons;

(2) Any incident in which the inmate has expressed threats to the life or well-being of other persons;

(3) Any incident involving possession by the inmate of deadly weapons or dangerous drugs;

(4) Any incident in which the inmate is involved in a disruption of the orderly operation of a prison, jail, or other correctional institution;]

Special reasons are required in the Warden's request to the Regional Director to support the conclusion that the safety of the institution is threatened in a way other than those listed in (1) through (4) above.

[(5) An escape from a correctional institution.

(6) An escape attempt. Depending on the circumstances, an escape attempt, considered alone or together with an inmate's prior history, may warrant consideration for a control unit placement.]

An escape attempt involving the taking of hostages, or an escape attempt involving the use of weapons, warrants referral to the control unit. Other examples that may warrant a referral include:

- # multiple escape attempts,
- # an escape attempt otherwise involving injury or threat to life, or
- # use of a deadly weapon.

Incidents involving the possession of escape tools or plans, an escape attempt not involving injury or threat to life or use of a deadly weapon ordinarily do not warrant a referral; designating a U.S. Penitentiary for the inmate should be considered first.

[(7) The nature of the offense for which committed. An inmate may not be considered solely on the nature of the crime which resulted in that inmate's incarceration; however, the nature of the crime may be considered in combination with other factor(s) as described in paragraph (b) of this section.

c. The Warden may not refer an inmate for placement in a

control unit:

(1) If the inmate shows evidence of significant mental disorder or major physical disabilities as documented in a mental health evaluation or a physical examination;]

A mental health evaluation (by an appropriate mental health professional) and a medical (including dental) examination report (by medical staff) will be available for the Warden's consideration prior to referring an inmate for a control unit placement. The mental health evaluation must include an up-to-date mental health report. If the inmate refuses to cooperate in a mental health evaluation, the psychologist will document this refusal in a report consisting of a record review and staff observation.

The report must include, to the extent possible, the information required in Section 6.a.(5) of this Program Statement. The mental health report will be forwarded with the referral package. Ordinarily, necessary dental work is completed prior to an inmate's transfer to a control unit.

[(2) On the basis that the inmate is a protection case, e.g., a homosexual, an informant, etc., unless the inmate meets other criteria as described in paragraph (b) of this section.]

7. DESIGNATION OF HEARING ADMINISTRATOR §541.42

a. The Regional Director in the region where the inmate is located shall review the institution's recommendation for referral of an inmate for placement in a control unit. If the Regional Director concurs with the recommendation, the Regional Director shall forward a written request, together with the institution's referral material, to the Regional Director of the region where the control unit is located. The Regional Director of the region where the control unit is located shall designate a person in the Regional Office to review the referral material and to conduct a hearing on the appropriateness of an inmate's placement in a control unit.

b. The Hearing Administrator shall have the following qualifications:

(1) Correctional experience, including institutional work with inmates, processing of inmate disciplinary actions, significant institutional experience in observing and evaluating inmate adjustment and disruptive behavior, and knowledge of the options available in the Bureau of Prisons for dealing with such

conduct;

(2) Lack of former personal involvement in an Institution Discipline Committee action involving the particular inmate in incident(s) referred; and

(3) Familiarity with Bureau of Prisons policies and operations, including the criteria for placement of inmates in different institutions and in a control unit.]

The Hearing Administrator will contact the recommending institution's Warden to arrange the time and date for the hearing.

8. [HEARING PROCEDURE §541.43

a. The Hearing Administrator shall provide a hearing to an inmate recommended for placement in a control unit. The hearing ordinarily shall take place at the recommending or sending institution.

b. The hearing shall proceed as follows.

(1) Staff shall provide an inmate with an advance written notice of the hearing and a copy of this rule at least 24 hours prior to the hearing. The notice will advise the inmate of the specific act(s) or other evidence which forms the basis for a recommendation that the inmate be transferred to a control unit, unless such evidence would likely endanger staff or others. If an inmate is illiterate, staff shall explain the notice and this rule to the inmate and document that this explanation has occurred.]

The Hearing Administrator prepares the "Notice of Control Unit Hearing" (Attachment A). If the Hearing Administrator intends to consider any disciplinary actions the inmate received before or after the control unit referral, these actions must be referred to in the notice.

The Hearing Administrator sends the "Notice of Control Unit Hearing" and a copy of either this Program Statement or the current rule (28 CFR 541.40-50) on control unit programs to the institution for staff delivery to the inmate. The date and time the inmate receives this material will be recorded on the staff copy of the notice.

[(2) The Hearing Administrator shall provide an inmate the service of a full-time staff member to represent the inmate, if

the inmate so desires. The Hearing Administrator shall document in the record of the hearing an inmate's request for, or refusal of staff representation. The inmate may select a staff representative from the local institution. If the selected staff member declines or is unavailable, the inmate has the option of selecting another representative or, in the case of an absent staff member, of waiting a reasonable period (determined by the Hearing Administrator) for the staff member's return, or of proceeding without a staff representative. When an inmate is illiterate, the Warden shall provide a staff representative. The staff representative shall be available to assist the inmate and, if the inmate desires, shall contact witnesses and present favorable evidence at the hearing. The Hearing Administrator shall afford the staff representative adequate time to speak with the inmate and to interview available witnesses.

(3) The inmate has the right to be present throughout the hearing, except where institutional security or good order is jeopardized. The Hearing Administrator may conduct a hearing in the absence of the inmate when the inmate refuses to appear. The Hearing Administrator shall document an inmate's refusal to appear, or other reason for non-appearance, in the record of the hearing.]

An inmate who refuses to appear at the hearing may still elect to have a staff representative and witness(es) appear in his or her behalf.

[(4) The inmate is entitled to present documentary evidence and to have witnesses appear, provided that calling witnesses would not jeopardize or threaten institutional security or individual safety, and further provided that the witnesses are available at the institution where the hearing is being conducted.

(a) The evidence to be presented must be material and relevant to the issue as to whether the inmate can and would function in a general prison population without being or posing a threat to staff or others or to the orderly operation of the institution. The Hearing Administrator may not consider an attempt to reverse or repeal a prior finding of a disciplinary violation.

(b) Repetitive witnesses need not be called. Staff who recommend placement in a control unit are not required to appear, provided their recommendation is fully explained in the record. Staff who were involved, in any capacity, in former disciplinary proceedings need not be called as to their involvement in those proceedings, since this hearing is not to go over the factual basis for prior actions which have been decided.]

A staff witness whom the Hearing Administrator determines can present material and relevant evidence or testimony may not decline to appear.

[(c) When a witness is not available within the institution, or not permitted to appear, the inmate may submit a written statement by that witness. The Hearing Administrator shall, upon the inmate's request, postpone any decision following the hearing for a reasonable time to permit the obtaining and forwarding of written statements.]

(d) The Hearing Administrator shall document in the record of the hearing the reasons for declining to permit a witness or to receive documentary evidence.]

9. [DECISION OF THE HEARING ADMINISTRATOR §541.44

a. At the conclusion of the hearing and following review of all material related to the recommendation for placement of an inmate in a control unit, the Hearing Administrator shall prepare a written decision as to whether this placement is warranted. The Hearing Administrator shall:

(1) Prepare a summary of the hearing and of all information presented upon which the decision is based; and

(2) Indicate the specific reasons for the decision, to include a description of the act, or series of acts, or evidence on which the decision is based.]

This description must be sufficiently detailed to give a reader the information upon which the decision is based.

[b. The Hearing Administrator shall advise the inmate in writing of the decision. The inmate shall receive the information described in paragraph (a) of this section unless it is determined that the release of this information could pose a threat to individual safety, or institutional security, in which case that limited information may be withheld. The Hearing

Administrator shall advise the inmate that the decision will be submitted for review of the Executive Panel. The Hearing Administrator shall advise the inmate that, if the inmate so desires, the inmate may submit an appeal of the Hearing Administrator's decision to the Executive Panel. This appeal, with supporting documentation and reasons, must be filed within five working days of the inmate's receipt of the Hearing Administrator's decision.]

The date and time the inmate receives the Hearing Administrator's written decision (Attachment B), and the name and signature of the staff member notifying the inmate, will be recorded on the notification and on the notification central file copy.

[c. The Hearing Administrator shall send the decision, whether for or against placement in a control unit, and supporting documentation to the Executive Panel. Ordinarily this is done within 20 working days after conclusion of the hearing. Any reason for extension is to be documented.]

10. [EXECUTIVE PANEL REVIEW AND APPEAL §541.45. The Executive Panel is composed of the Regional Director of the region where a control unit is located to which referral is being considered and the Assistant Director, Correctional Programs Division.]

The Assistant Director, Correctional Programs Division, or appropriate Regional Director may authorize the Deputy Assistant Director, Correctional Programs Division, or Deputy Regional Director, respectively, to sit on the Executive Panel in their places. This authority may not be further delegated.

[a. The Executive Panel shall review the decision and supporting documentation of the Hearing Administrator and, if submitted, the information contained in an inmate's appeal. The Panel shall accept or reject the Hearing Administrator's decision within 30 working days of its receipt, unless for good cause there is reason for delay, which shall be documented in the record.

b. The Executive Panel shall provide a copy of its decision to the Warden at 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 Executive Panel will send the inmate's copy in care of the Warden, who ensures 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 on the notification central file copy. The referring region's copy is sent to the Regional Director.

If an inmate is approved for control unit placement, the receiving institution Warden will place the inmate on a waiting list and must notify the referring Warden when housing is available. Pending transfer, the inmate is to be considered in holdover status. The referring Warden will arrange for the inmate to receive a physical examination (ordinarily within 30 days of transfer to a control unit) and a current mental health evaluation (ordinarily within 90 days of transfer).

[c. An inmate may appeal a decision of the Executive Panel, through the Administrative Remedy Procedure, directly to the Office of General Counsel, Bureau of Prisons within 30 calendar days of the inmate's receipt of the Executive Panel's decision.]

The inmate will be advised of the right to appeal in the notification the Executive Panel sent (see Section 10.b.).

11. **[PROGRAMS AND SERVICES §541.46.]** A unit manager, who provides activities, programs, and services consistent with maintaining the security and good order of the unit, supervises a control unit. **[The Warden shall provide the following services to a control unit inmate. These services must be provided unless compelling security or safety reasons dictate otherwise. These reasons will be documented and signed by the Warden, indicating the Warden's review and approval.]**

a. **Education.** The Warden shall assign a member of the education staff to the control unit on at least a part-time basis to assist in developing an educational program to fulfill each inmate's academic needs. The education staff member is ordinarily a member of the control unit team.]

Study courses ordinarily are provided for all levels; i.e., adult basic education, GED programs, correspondence courses, areas of special interest, and college courses.

[b. Work Assignments. Staff may assign inmates to a work assignment, such as range orderly. The manner in which these

duties are carried out will reflect the inmate's unit adjustment, and will assist staff in evaluating the inmate.

c. Industries (UNICOR). If an industry program exists in a control unit each inmate participating in this program may earn industrial pay, subject to the regulations of Federal Prison Industries, Inc. (UNICOR). The industry program is supervised by an industry foreman. The control unit team will determine when or if an industry assignment is appropriate for each inmate who submits a request for possible assignment to industries work.

d. Legal. An inmate assigned to a control unit may use that unit's inmate basic law library, upon request and in rotation. Consistent with security considerations, the law library is to include basic legal reference books, and ordinarily a table and chair, paper and carbon. Abuse of materials in the inmate law library (for example, a typewriter) may result in a decision by the Warden to limit the use of legal materials. A decision to limit materials due to abuse must be documented in writing and signed by the Warden.]

On occasion, a control unit may be opened before the unit's inmate basic law library is completed. When this occurs, and pending the basic law library's completion, staff will advise the inmate specifically that legal reference books are available, upon request, from the institution's main law library.

Legal reference books available in the main, but not in an existing basic law library, may be obtained upon request. The governing concept is that an inmate must have access to the same legal reference books available to all other inmates. If an inmate abuses these books, staff may require him or her to use the books under closer supervision (for example, in the inmate's cell).

[e. Recreation. The recreation program in a control unit shall include the following requirements:

(1) Each inmate shall have the opportunity to receive a minimum of seven hours weekly recreation and exercise out of the cell.]

(a) Upon the Warden's approval, inmates may receive more than seven hours. The Warden may not delegate this authority below the level of Acting Warden. Staff will provide recreation by rotating participants during the day. When an inmate refuses

recreation, staff will note this on the inmate's recreation form. Inmates ordinarily recreate individually.

To allow inmates to recreate as a group, the Warden must send a recommendation through the Regional Director, to the Assistant Director, Correctional Programs Division. Only the Assistant Director may approve group recreation.

(b) Staff may offer outdoor recreation to inmates, weather permitting. Foul-weather gear, when available, will be provided inmates who recreate outdoors during inclement weather.

[(2) Staff shall provide various games and exercise materials as consistent with security considerations and orderly operation of the unit. Inmates who alter or intentionally damage recreation equipment may be deprived of the use of that equipment in the future.]

Televisions and radios may be provided within a control unit, consistent with security and good order. Abuse or damage of television rules or equipment will be grounds for individual limitations on the use or removal of the television.

[f. Case Management Services. The Case Manager is responsible for all areas of case management. This ordinarily includes preparation of the visiting list, notarizing documents, preparation of various reports, and other case management duties. The case manager is ordinarily a member of the control unit team.

g. Counselor Services. The unit counselor ordinarily handles phone call requests, special concerns and requests of inmates, and requests for administrative remedy forms. The unit counselor is also available for consultation and for counseling as recommended in the mental health evaluation (see paragraph "i" of this section - Mental Health Services).

h. Medical Services. A member of the medical staff shall visit control unit inmates daily. A physician will visit the unit as the need arises.]

Should an illness require evaluation or treatment that cannot be administered in the unit, and upon the request of the medical doctor or dentist, staff will escort the inmate to the institution medical facility.

[i. Mental Health Services. During the first 30-day period in a control unit, staff shall schedule the control unit inmate for a psychological evaluation conducted by a psychologist. Additional individual evaluations shall occur every 30 days. The psychologist shall perform and/or supervise needed psychological services. Psychiatric services will be provided when necessary. Inmates requiring prescribed psychotropic medication are not ordinarily housed in a control unit.]

The evaluation's purpose is to identify any mental health problems and to develop written treatment plans for services to be provided during control unit confinement.

[j. Religion. Staff shall issue religious materials upon request, limited by security consideration and housekeeping rules in the unit. This material may come from an inmate's personal property or from the chaplain's office. The institutional chaplains shall make at least weekly visits to the control unit. While individual prayer and/or worship is allowed in a control unit, religious assemblies or group meetings are not allowed.]

Chaplains may make additional visits to their institution's control unit as needed.

[k. Food Service and Personal Hygiene. Staff shall provide food services and personal hygiene care consistent with the requirements of the current rule regarding Special Housing Units.

1. Correspondence. Inmates confined in a control unit are provided correspondence privileges in accordance with the Bureau of Prisons' rule on Inmate Correspondence (see 28 CFR, part 540).]

28 CFR, Part 540 refers to the Program Statement on Correspondence.

[m. Visiting. Visits for inmates confined in a control unit are conducted in a controlled visiting area, separated from regular visiting facilities. Staff shall allot a minimum of four hours per month visiting time to a control unit inmate. The number of consecutive hours visiting on a particular day may be limited by the number of visitors waiting to visit. All visitors must be on the inmate's approved visiting list.]

The Warden may establish a limit, consistent with resources and institution security and good order, on the number of:

visitors an inmate may receive,

- # visits in excess of four each month, and
- # number of visiting hours in excess of four allotted each month.

[n. Commissary. Staff shall establish a commissary purchase schedule. The amount of money which control unit inmates spend per month is comparable to the spending limitation for inmates residing in the general population. Staff may limit commissary items to ensure the safety and security of the unit.]

Control unit staff should consult with staff in the institution's Office of Financial Management to decide which commissary items should be made available to control unit inmates. The Warden's approval is required before any commissary items are made available.

[o. Personal Property. Personal property retained by an inmate in a control unit is to be stored in the space provided. Personal property items shall be limited in number and type to ensure the safety and good order of the unit.]

Storage of legal materials is limited to three cubic feet.

12. **RECORDS**. Detailed records are to be maintained in the unit. All admissions will be recorded, indicating:

- # date,
- # time,
- # reason for admission, and
- # authorizing official.

All releases, of any type, from the unit will be similarly recorded.

Staff will maintain records regarding:

- # meals,
- # showers,
- # recreation,
- # medication, and
- # medical and mental health treatment
- # education activities.

Staff will record any unusual activity or behavior (both positive and negative) of individual inmates; these records must be added to the Inmate Central File.

Officials visiting the unit must sign a log, giving time, date, and reason for the visit.

13. **[ADMISSION TO CONTROL UNIT §541.47. Staff shall provide an inmate admitted to a control unit with:**

a. Notice of the projected duration of the inmate's confinement in a control unit;]

(1) Staff must notify an inmate upon admission to a control unit of his or her "unit status" (projected duration of confinement in the control unit). In determining this, staff must give primary consideration to the nature of the act(s) that resulted in the control unit placement. Another factor to consider is the inmate's behavior while in administrative detention pending actual placement.

(2) An inmate's unit status, once established by the unit team, is to be reduced on a day-for-day basis for the time the inmate was in administrative detention prior to actual placement in a control unit. This "credit" includes both:

- # time spent in administrative detention following the DHO hearing, but prior to the decision approving placement and
- # time spent in administrative detention following the placement decision, but prior to actual placement.

When more than one incident report is used as a basis for referral, or when a disciplinary sanction is not involved, the "credited" time is determined by the last incident on which the Warden made the referral. Time in disciplinary segregation is not credited.

(3) An inmate's unit status may range from one month to any definite number of months. The unit team may increase or decrease unit status, once assigned, provided this is documented and dependent on behavior while assigned to the unit. This includes behavior while the inmate is classified as a control unit inmate, even though the inmate is out of the unit on writ, holdover status, etc.

[b. Notice of the type of personal property which is allowed in the unit (items made of glass or metal will not be permitted);

c. A summary of the guidelines and disciplinary procedures applicable in the unit;)]

An inmate in a control unit is expected to abide by the Program Statement on Inmate Discipline and Special Housing Units. The DHO ordinarily conducts his or her hearings in the control unit. Control unit inmates are subject to placement in disciplinary

segregation status.

The Control Unit Team must determine whether "Control Unit Status" time is credited while inmates are placed in Disciplinary Segregation status.

[d. An explanation of the activities in a control unit;

e. The expectations of the inmate's involvement in control unit activities; and,

f. The criteria for release from the unit, and how those criteria specifically relate to this confinement period in the unit and any specific requirements in the inmate's individual case.]

14. [SEARCH OF CONTROL UNIT INMATES §541.48

a. The Warden at an institution housing a control unit may order a digital or simple instrument search for all new admissions to the control unit. The Warden may also order a digital or simple instrument search for any inmate who is returned to the control unit following contact with the public. Authorization for a digital or simple instrument search must be in writing, signed by the Warden, with a copy placed in the inmate central file. The Warden's authority may not be delegated below the level of Acting Warden.]

As discussed in the Program Statement on Searches of Housing Units, Inmates, and Inmate Work Areas, a digital or simple instrument search is an inspection for contraband or any other foreign item in an inmate's body cavity using fingers or simple instruments, such as an otoscope, tongue blade, short nasal speculum, and simple forceps.

Only qualified health personnel (for example, physicians, physician assistants, and nurses) may conduct a digital or simple instrument search upon written approval of the Warden or Acting Warden. Medical staff may remove the contraband or foreign item, if located, if such removal can easily be effected by fingers or simple instruments. Persons of the opposite sex from the inmate may not observe the search.

The need for this procedure arose because some inmates were transporting serious contraband, such as hacksaw blades, in their rectal cavities. Undetected, such contraband poses a serious threat to institution security and good order, and to the protection of staff and other inmates.

This threat is heightened in a control unit setting; inmates in a control unit have been determined to be unable to function in a less restrictive environment without being a threat to others or to the institution's orderly operation. This assessment is supported by the factors that warrant control unit referral, such as incidents during confinement in which the inmate caused injury to other persons, or involvement in a disruption of the institution's orderly operation.

Because a control unit is the Bureau's most secure housing unit, it is necessary that the Warden, on the basis of correctional experience and judgment, have the authority to order a digital or simple instrument search on an inmate received at, or returned to, a control unit following contact with the public.

As used here, the phrase "following contact with the public" includes an inmate's return to the control unit from outside the institution, and access to an area within the institution to which the public also has had an opportunity for access. Digital or simple instrument searches in other situations must meet the separate requirements of Program Statement on Searches of Housing Units, Inmates, and Inmate Work Areas.

[b. An inmate in a control unit may request in writing that an X-ray be taken in lieu of the digital search discussed in paragraph a. of this section. The Warden shall approve this request, provided it is determined and stated in writing by the institution's Clinical Director or Acting Clinical Director (may not be further delegated) that the amount of X-ray exposure previously received by the inmate, or anticipated to be given the inmate in the immediate future, does not make the proposed X-ray medically unwise. Staff are to place documentation of the X-ray, and the inmate's signed request for it, in the inmate's central and medical files. The Warden's authority may not be delegated below the level of Acting Warden.]

The Clinical Director may authorize qualified health personnel to give this X-ray only upon the Warden's direction, and only after the Clinical Director determines that the proposed X-ray is not medically unwise. A decision to give the X-ray does not imply that the X-ray is clinically indicated.

The amount of exposure a person may receive from a single X-ray depends on the type of X-ray given. Prior to granting an inmate's request that an X-ray be substituted for a digital search, the Health Services Administrator, or Acting Administrator, will review, or will designate qualified health personnel to review, the inmate's medical record to determine whether the amount of X-ray exposure the inmate previously received, or anticipated in the immediate future, warrants a denial of the request.

No X-ray may be given if it is determined that it would be medically unwise. Specific attention will be given to whether an inmate had received any other X-rays within the past 12 months, whether any special medical condition exists, and whether other X-rays are anticipated in the near future.

[c. Staff may not conduct a digital or simple instrument search if it is likely to result in physical injury to the inmate. In this situation, the Warden, upon approval of the Regional Director, may authorize the institution physician to order a non-repetitive X-ray for the purpose of determining if contraband is concealed in or on the inmate. The X-ray examination may not be performed if it is determined by the institution physician that such an examination is likely to result in serious or lasting medical injury or harm to the inmate. Staff are to place documentation of the X-ray examination in the inmate's central file and medical file. The authority of the Warden and Regional Director may not be delegated below the level of Acting Warden and Acting Regional Director respectively. If neither a digital or simple instrument search, nor an X-ray examination may be used, the inmate is to be placed in a dry cell until sufficient time has passed to allow excretion.]

Only one X-ray per incident may be given under this subsection. If that X-ray does not resolve any question concerning contraband being concealed in or on the inmate, that inmate must be placed in a dry cell until sufficient time has passed to allow excretion.

It should be noted that a control unit inmate who initially refuses the X-ray, but is still given an X-ray under the conditions specified in subsection c. (e.g., upon the Regional Director's approval), may, if the X-ray is inconclusive, request and receive an additional X-ray provided the conditions specified in subsection b. are met.

[d. Staff shall solicit the inmate's written consent prior to

conducting a digital or simple instrument search, or, as specified in paragraph (c) of this section, an X-ray examination. However, the inmate's consent is not required.]

15. [REVIEW OF CONTROL UNIT PLACEMENT §541.49.

a. Unit staff shall evaluate informally and daily an inmate's adjustment within the control unit. Once every 30 days, the control unit team, comprised of the control unit manager and other members designated by the Warden (ordinarily to include the officer-in-charge or lieutenant, case manager, and education staff member assigned to the unit), shall meet with an inmate in the control unit. The inmate is required to attend the team meeting in order to be eligible for the previous month's stay in the control unit to be credited towards the projected duration of confinement in that unit.

The unit team shall make an assessment of the inmate's progress within the unit and may make a recommendation as to readiness for release after considering the inmate's:

- (1) Unit status;
- (2) Adjustment; and
- (3) Readiness for release from the unit. (See §541.50(a))]

28 CFR 541.50(a) refers to Section 16.a. of this Program Statement.

The unit team, at its 30-day review, must have available the collected daily activity data and mental health assessment reports; they will conduct a personal interview.

[b. The Warden shall serve as the review authority at the institutional level for unit team actions.

c. An inmate may appeal the Warden's decision to the Executive Panel within five working days of receipt of that decision. The inmate will receive a response to this appeal at the inmate's next appearance before the Executive Panel.

d. At least once every 60 to 90 days, the Executive Panel shall review the status of an inmate in a control unit to determine the inmate's readiness for release from the Unit. The Executive Panel shall consider those factors specified in §541.50(a), along with any recommendations by the unit team and Warden. The decision of the Executive Panel is communicated to the inmate. Ordinarily, the inmate is interviewed in person at

this review. If the inmate refuses to appear for this review, or if there is other reason for not having an in-person review, this will be documented.]

28 CFR 541.50(a) refers to Section 16.a. of this Program Statement.

The Executive Panel may waive an in-person review when available information indicates either minor or no change in the inmate's status.

When the inmate does not appear before the Executive Panel, the date and time the inmate is notified of the decision, and the name and signature of the staff member giving this notification, are to be recorded on the appropriate form.

[e. An inmate may appeal a decision of the Executive Panel, through the Administrative Remedy Procedure, directly to the Office of General Counsel, Bureau of Prisons within 30 calendar days from the date of the Executive Panel's response.]

16. [RELEASE FROM A CONTROL UNIT §541.50

a. Only the Executive Panel may release an inmate from a control unit. The following factors are considered in the evaluation of an inmate's readiness for release from a control unit:

(1) Relationship with other inmates and staff members, which demonstrates that the inmate is able to function in a less restrictive environment without posing a threat to others or to the orderly operation of the institution;

(2) Involvement in work and recreational activities and assignments;

(3) Adherence to institution guidelines and Bureau of Prisons rules and policy;

(4) Personal grooming and cleanliness; and

(5) Quarters sanitation.

b. An inmate released from a control unit may be returned:

(1) To the institution from which the inmate was originally transferred;

(2) To another federal or non-federal institution; or

(3) Into the general population of the institution which has a control unit.]

A decision to transfer will reflect the control unit team's judgment that the inmate can function in the receiving institution population in such a way that he or she is not likely to be a threat to others, or to the institution's orderly operation.

"Union Clearance"

Kathleen Hawk Sawyer
Director

NOTICE OF CONTROL UNIT HEARING

The original of this Notice was delivered to the inmate
(date/time)_____ by (staff member's
signature/printed name)_____

DATE: _____

To: Inmate's Name - _____ Register Number: _____

Institution - _____

From: Hearing Administrator - _____

You have been referred for a hearing before a Control Unit
Hearing Administrator. This hearing is to determine if you
should be confined in the Control Unit at _____.
Information concerning this referral, the hearing, and your
rights at this hearing are set forth in this Notice.

1. Scheduled Date and Location for Hearing: _____

2. Brief summary of the act(s) resulting in the recommendation
for control unit placement:

3. You are entitled to have a full-time staff member represent
you at this hearing. Please indicate whether you desire to
have a staff representative and, if so, the person's name.

9 I wish to have the following staff representative:

9 _____
I do not want a staff representative.

4. You have the right to call available witnesses at the hearing and to present documentary evidence. It is not the purpose of this hearing, however, to "rehear" prior disciplinary proceedings. The testimony of witnesses and the documentary evidence presented must be relevant to the issue of whether you can and would function in a general prison population without posing a threat to staff or others, or to the orderly operation of the institution. Witnesses providing repetitive testimony, witnesses not available at the institution, and witnesses whose appearance at the hearing would jeopardize institutional safety, will not be called. You may, however, submit such testimony in the form of a written and signed statement(s).

Please indicate on the next page if you wish to call available witnesses. If you do wish to call witnesses, give their names, along with a brief description of their expected testimony.

NOTICE OF CONTROL UNIT HEARING

INMATE'S NAME: _____ REGISTER #: _____

DATE: _____

5. a. **9** Initial this box if you do not want to call any witnesses.
- b. If you do want to call available witnesses, give their names and a brief description of their expected testimony.

Name: _____ Can testify to: _____

- c. List the names of those witnesses from whom you intend to obtain written statements.

Name: _____ Can make a statement to: _____

If additional space is needed, use the reverse side of this form. Failure to complete the form will be considered as your waiver to witnesses and staff representation.

Signature of Inmate: _____

Date: _____

NOTICE OF CONTROL UNIT HEARING

INMATE'S NAME: _____ REGISTER #: _____
DATE: _____

6. Inmate Rights at Control Unit Hearing - As an inmate referred for placement in a control unit, you have the following rights:
- a. The right to have a written summary of the specific act(s) or other evidence which forms the basis for a control unit recommendation, unless such information would likely endanger staff or others. You have the right to receive this summary at least 24 hours prior to the hearing.
 - b. The right to have a full-time member of the staff who is reasonably available to represent you before the Hearing Administrator.
 - c. The right to be present throughout the hearing except where institutional security or good order would be jeopardized. If you elect not to appear before the Hearing Administrator, you may still elect to have a staff representative and witnesses appear in your behalf.
 - d. The right to call available witnesses and to present documentary evidence in your behalf which is relevant to the issue, provided institutional security or individual safety would not be jeopardized.
 - e. The right to be advised, in writing, of the Hearing Administrator's decision and of a summary of the facts and reasons supporting this decision, to the extent, institutional security or individual safety would not be jeopardized.
 - f. The right to appeal the recommendation of the Hearing Administrator by a written appeal to:

Executive Panel
Attn: Regional Director
Bureau of Prisons

This appeal, with supporting documentation and reasons, must be

filed within five working days of the inmate's receipt of the Hearing Administrator's decision.

7. I have been advised of the above rights afforded me at a Control Unit Hearing. I have also received a copy of the Program Statement or current rule (cross out one) on Control Unit Programs.

Signature of Inmate: _____ Date: _____

8. When an inmate has been advised of the above rights and provided a copy of the current rule or Program Statement on Control Unit Programs, but refuses to sign the acknowledgment, the following is to be completed:

I have personally advised _____ of the above rights, and provided the inmate with a copy of the current rule or Program Statement (cross out one) on Control Unit Programs; however, the inmate refused to sign the acknowledgment.

Signature of Employee: _____ Date: _____

Printed Name of Employee: _____

CONTROL UNIT HEARING ADMINISTRATOR'S REPORT

INMATE'S NAME: _____ REGISTER #: _____

DATE: _____

1. Notice of Hearing:
 - a. The "Notice of Control Unit Hearing" was given to the above named inmate on (date)_____ at (time)_____. A copy of this Notice is attached.
 - b. The hearing was held by (Hearing Administrator)_____, _____ Region, on (date)_____ at _____. The inmate was ___ present; ___ not present for the following reason(s):_____.

A summary of the inmate's statement is attached.

-
2. Staff Representation: The inmate was advised, in the "Notice of Control Unit Hearing," of the right to select a staff representative.
 - a. ___ The inmate elected to proceed without a staff representative.
 - b. ___ The inmate selected a staff representative, who appeared at the control unit hearing. The staff representative selected was _____

A summary of the representative's statement given at the hearing is attached.

-
3. Appearance of Witnesses: The inmate was advised, in the "Notice of Control Unit Hearing," of the right to have witnesses appear at the hearing.
 - a. ___ The inmate elected to proceed without the benefit of witnesses.
 - b. ___ The inmate selected the following witnesses to appear.

A summary of witness(es) statements given at the hearing is attached.

-
4. Presentation of Documented Statements: The inmate was advised, in the "Notice of Control Unit Hearing," of the right to submit documentary evidence.
 - a. ___ The inmate declined to present any documentary evidence to the Hearing Administrator.
 - b. ___ The inmate presented the following documentary evidence.

A copy of the documentary evidence is attached.

-
5. Inmate's Physical and Mental Health:

CONTROL UNIT HEARING ADMINISTRATOR'S REPORT

INMATE'S NAME: _____ REGISTER #: _____
DATE: _____

6. Finding:

7. Decision:

8. Appeal Rights: you have the right to appeal this decision
by forwarding a written appeal to:

Executive Panel
Attn.: Regional Director
Bureau of Prisons

Your appeal must be filed within five (5) work days
following receipt of the Hearing Administrator's decision.
The final decision is made by the Executive Panel.

Signature of Hearing Administrator: _____
Date: _____

Printed Name of Hearing Administrator: _____

10. I hereby acknowledge that I have received a copy of the
Hearing Administrator's decision on (date) _____ at
(time) _____.

Signature of Inmate: _____

Signature/Printed Name of Employee: _____

11. When an inmate refuses to sign for a copy of the decision,
the following is completed.

I have personally delivered a copy of the Hearing
Administrator's decision to the above-named inmate; however,
the inmate refused to sign the acknowledgment.

Date/Time of Delivery: _____

Signature/Printed Name of Employee: _____