



U.S. Department of Justice
Federal Bureau of Prisons

PROGRAM STATEMENT

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Pretrial Inmates

/s/

Approved: Colette S. Peters
Director, Federal Bureau of Prisons

1. PURPOSE AND SCOPE

§551.100 Purpose and scope.

In addition to convicted inmates, the Bureau of Prisons houses persons who have not been convicted. Procedures and practices required for the care, custody, and control of such inmates may differ from those established for convicted inmates. Pretrial inmates will be separated, to the extent practicable, from convicted inmates. Except as specified by this rule, policies and standards applicable to persons committed to the custody of the Attorney General or the Bureau of Prisons apply also to pretrial inmates as defined in §551.101. Section 3 of this Program Statement contains definitions from §551.101.

a. Program Objectives. The expected results of this program are:

- Pretrial inmates will be separated to the extent practicable from convicted inmates. When this is not practicable, employees will screen and assess pretrial inmates, permitting those who do not present a risk to the security or orderly running of the institution to have regular contact with convicted inmates.
- Pretrial inmates will not be required to work (other than housekeeping tasks in their cells or community living area), unless they waive their right **not** to work.
- An initial assessment of pretrial inmates will be conducted within 48 hours of admission.
- Pretrial inmates will be offered the opportunity to participate in institution programs and services as is consistent with safety and the orderly running of the institution.
- The status of pretrial and holdover inmates will be reviewed regularly and each time they return from court.

b. Summary of Changes.

Policy Rescinded

PS 7331.04 Pretrial Inmates (1/31/2003)

- Struck language regarding excludable non-U.S. citizens.
- Added language regarding the Admission/Release Status for inmates waiting to be picked up by Immigration and Customs Enforcement (ICE) officials upon completion of their sentence.
- Removed references to specific admission assignments.
- Removed option to permit institutions to devise a form, which documents pretrial inmates receiving the Admission & Orientation (A & O) and Inmate Rights and Responsibilities in lieu of using the Bureau of Prisons (Bureau's) Inmate Information System generated intake screening form.
- Added language to identify correct keying for U.S. Marshals Service (USMS) pretrial or holdover inmate death.
- Added language clarifying voting rights status for pretrial inmates.
- Added language to distinguish between inmates pending sentencing and pending designation and movement.
- Added language to address A & O requirements for pretrial inmates under the Prison Rape Elimination Act (PREA).
- Added language requiring institutions to develop local procedures for alternate legal access arrangements after a significant or disruptive event exceeds 24 hours.
- Added language regarding institution notification requirements when significant or disruptive events results in restrictions to legal access and/or social visiting.
- Corrected Institution Supplement list to include establishing procedures to ensure psychiatry/psychology employees review study cases to determine an inmate's competency to waive right to not work and to ensure the screening of inmates returning from court.
- Added an element to the Institution Supplement contents requiring institutions to develop notification procedures when a significant or disruptive event results in restrictions to legal access and/or social visiting.
- Added an element to the Institution Supplement contents requiring institutions to develop alternate contact procedures for pretrial inmates and attorneys when a significant or disruptive event results in restrictions to legal access.
- Changed the term 'staff' to 'employee.' For purposes of this Program Statement, the term 'employee' is used in black implementing text and is intended to have the same meaning as the term 'staff' used in bold and blue regulatory text.

INSTITUTION SUPPLEMENT. Required for Wardens at institutions where 100 or more beds have been allocated to the USMS. Should local facilities make any changes outside the required changes in the national policy or establish any additional local procedures to implement the national policy, the local Union may invoke to negotiate procedures or appropriate arrangements.

2. **Purpose.** The Institution Supplement's purpose is to describe local procedures for managing pretrial inmates. It is necessary to identify which employees, by position, have been designated responsibility for specific procedures.

a. **Review and Approval.** Institution Supplements require review by the Regional Correctional Programs Administrator. The Regional Correctional Programs Administrator will respond in writing to the Warden.

b. **Required Procedures.** The Institution Supplement must include at a minimum, procedures for the following:

- Admitting pretrial inmates,
- Informing the Warden of inmates whose case has generated broad publicity or could bring particular attention to the Bureau,
- Requiring a Bureau Inmate Information System review before a housing assignment change for potential separatees or other management concerns,
- Specifying procedures for operating pretrial inmate housing area.,
- Specifying procedures for obtaining legal materials in the institution's main law library,
- Ensuring all pretrial inmates are afforded access to leisure library materials and other education programs,
- Allowing all pretrial inmates access to counseling services, if they request, and how these services can be accessed,
- Establishing procedures to ensure psychiatry/psychology employees determine the competency of a pretrial inmate who requests to waive his or her right not to work,
- Establishing procedures to ensure the screening of inmates returning from court, as events at court may alter the inmate's separation and/or security needs,
- Establishing notification procedures when a pretrial inmate is receiving psychiatric medication and/or any other medication which may alter the inmate's courtroom behavior,
- Establishing procedures for alternate legal access arrangements after a significant or disruptive event exceeds 24 hours and results in restrictions to legal access,
- Establishing alternate procedures for notifying inmates, inmate families, defense counsel, the courts and the public when disruptive events exceed 24 hours and management decides to restrict legal access and social visiting,
- Establishing alternate contact procedures for both pretrial inmates and attorneys when a significant or disruptive event exceeds 24 hours and results in restriction to legal access,
- Establishing notification procedures when a pretrial inmate violates Bureau disciplinary rules, and
- Providing for the exchange of court clothing.

3. BACKGROUND

Normally, pretrial inmates are housed in administrative institutions including Metropolitan Detention Centers (MDCs), Federal Detention Centers (FDCs), and Metropolitan Correctional Centers (MCCs). These institutions may also house convicted inmates awaiting sentencing or movement to designated institutions, or sentenced inmates who require further court appearances.

Other institutions also house pretrial inmates. These institutions may house pretrial inmates in specific units within the main facility or in jail units located in satellite buildings separate from the main facility.

Title 18 U.S.C. § 3142(i)(2) states that pretrial inmates are to be separated, “to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal.” Practicable is dependent on the institution’s design, structure, and operation. When it is not practicable to keep pretrial inmates separate, after intake screening and assessment, employees may permit, based upon sound correctional judgment, pretrial inmates who do not present a risk to the institution’s security or orderly running, to have regular contact with convicted inmates.

Pretrial inmates may not be compelled to work other than to perform housekeeping tasks in their cells and in the community living area. Pretrial inmates will be given the opportunity to waive their right not to work in order to participate in institution work programs (see Section 5.i of this Program Statement).

Pretrial inmates identified by management as inappropriate for housing with convicted inmates will be housed separately, to the extent practicable, in the least restrictive housing necessary, consistent with security needs and following sound correctional judgment.

Additionally, pretrial inmates are U.S. Marshals Service (USMS) prisoners. A Memorandum of Understanding (MOU) exists between the Bureau and the USMS. Based on the MOU, a procedural memorandum established a fixed number of beds for the USMS at specific Bureau institutions. The USMS is also responsible for operating the Justice Prisoner and Alien Transportation System (JPATS). As such, any inmate who meets the definition of the various types of pretrial inmates as outlined in Section 3 of this Program Statement may occupy USMS beds; however, rules language (Title 28 CFR, Section 551.100-120) applies only to inmates defined as pretrial inmates.

4. DEFINITIONS

§551.101 Definitions.

- a. **Pretrial inmate.** For purpose of this rule, “pretrial inmate” means a person who is legally detained but for whom the Bureau of Prisons has not received notification of conviction. Thus, “pretrial inmate” ordinarily includes a person awaiting trial, being tried, or awaiting a verdict.

The term “pretrial inmate” also includes a person awaiting sentencing after having pled or been found guilty, but the Bureau has not received *official* notification of conviction. See Section 7.d. of this Program Statement for procedures regarding notification of conviction.

(1) Civil contempt, deportable aliens, or material witnesses. For purpose of this rule, an inmate committed for civil contempt, or as a deportable alien, or as a material witness is considered a pretrial inmate.

Deportable non-U.S. citizen detainees housed in Bureau detention institutions, e.g., FDCs, MDCs, jail units, and contract detention facilities, are considered pretrial inmates.

Some Bureau institutions provide beds for the U.S. Immigration and Customs Enforcement (ICE) to house detainees. These detainees are given an admission assignment indicating their detainee status. While these detainees are also considered pretrial, they are not the USMS’ responsibility.

However, deportable non-U.S. citizen detainees who are in Bureau custody immediately following completion of their term of incarceration and pending removal by ICE are assigned an admission assignment reflective of their pending removal status. See Section 7.b of this Program Statement for housing separation guidelines.

For additional information regarding specific admission assignments, please see the Correctional Systems page on the Bureau’s intranet.

(2) Mental evaluation or treatment. An inmate committed under Title 18 U.S.C. Sections 4241(b) and (d), 4242(a), or 4243(b) is considered to be a pretrial inmate, whereas commitments under Sections 4243(e), 4244, 4245 or 4246 are treated as convicted inmates.

(3) Concurrent federal and state sentences. For purpose of this rule, an inmate in a status described in paragraph (a) introductory text, (a)(1), or (a)(2) of this section

and who is at the same time serving a state or federal sentence is not considered a pretrial inmate.

- b. Convicted inmate. For purposes of this rule, an individual a court has found guilty of an offense punishable by law.**

The term “convicted” refers to an inmate’s current admission status. An inmate who has completed service of any and all sentences imposed by a court but remains in custody is no longer considered a convicted inmate.

- c. Holdover.** A holdover is defined as an inmate en route to a designated institution. Holdover inmates are considered USMS prisoners and occupy beds allocated to the USMS at Bureau institutions. However, because they are convicted, they are not subject to the **rules language** for pretrial inmates (Title 28 CFR, Section 551.100-120).

There are two separate admission assignments to distinguish between types of USMS holdover inmates. For additional information regarding specific admission assignments, see the Correctional Systems page on the Bureau’s intranet.

- Unsentenced holdover inmates are inmates who have been convicted, but not yet sentenced, and
- Holdover inmates are inmates who have either:
 - Been sentenced, but not designated, or
 - Designated, but not received at their initially designated facility.

Note: For the purpose of programming activities, inmates who are un-sentenced holdovers will be managed similarly to pretrial inmates.

In contrast to USMS holdovers, Bureau holdover inmates are Bureau inmates who are transferring from one Bureau institution to another.

5. COMMITMENT PRIOR TO ARRAIGNMENT

§551.102. Commitment prior to arraignment.

On receipt of a U.S. Marshal remand, the Bureau of Prisons shall accept an individual who has not been arraigned for commitment as a pretrial inmate, provided that the institution has appropriate detention facilities available for that individual.

Federal law enforcement agencies, including the U.S. Marshals Service, must provide a BP-

A0377, Prisoner Remand form to commit prisoners to Bureau custody (e.g., pretrial, holdover, U.S. Immigration and Customs Enforcement [ICE] detainees). The agent is responsible for completing the form with as much information as possible before Bureau employees accept the prisoner. Each detention facility uses the information on this form to load the inmate into the Bureau's Inmate Information System.

Pretrial inmates are to be admitted in accordance with procedures in the Program Statement **Receiving and Discharge Manual**.

6. PROCEDURE FOR ADMISSION

§551.103 Procedure for admission.

Staff in administrative institutions or institutions with administrative components housing U.S. Marshals' prisoners shall establish procedures for admitting a pretrial inmate which include, but are not limited to:

a. Verification of commitment papers;

Employees will obtain information from the USMS or arresting agent which may reflect on the inmate's behavior or offense severity. The receiving officer or other designated employee will:

- question the USMS employee about separatees,
- identify other special security or medical precautions, and
- ensure this information is included on the BP-A0377, Prisoner Remand form.

b. Search of the inmate;

Pretrial inmates charged with misdemeanors or committed for civil contempt may not be visually searched unless there is reasonable suspicion they are concealing a weapon or other contraband or they consent, in writing, to a visual search. If these inmates are not visually searched, they must be housed in an area separate from all other inmates in accordance with the Program Statement **Receiving and Discharge Manual**.

c. Photographing and fingerprinting;

- Identification Photographs. An identification photograph is taken: full-face front, eyes open, without glasses or head coverings. Optional photographs, including a side view, scars, marks, and tattoos, and photographs of inmates wearing prescription glasses may be taken at the Warden's discretion. A height chart is in the background of the photograph.
- Fingerprint Cards. Fingerprints are taken at commitment. One full set of fingerprints is to be taken on ICE detainees, holdover, and pretrial inmates.

d. Disposition of clothing and personal possessions;

Procedures will be established, as referenced in the Program Statement **Receiving and Discharge Manual**, with arresting agencies regarding the disposal of property which:

- cannot be stored at the institution,
- presents a security risk, or
- is mailed easily to the arrestee's residence.

e. Intake screening (including Notice of Separation);

In addition to the medical and social intake screening as outlined in the Program Statement **Intake Screening**, the employee conducting social intake screening will advise the pretrial inmate, depending upon the institution's design, structure, and operation, that the inmate may have contact with convicted inmates. The inmate is asked to sign the Notice of Separation segment of the BP-A0203, Federal Prison System Pretrial Inmate Work Waiver/Notice of Separation. The Bureau's Inmate Information System generated intake screening form, the BP-A0407, Acknowledgement of Inmate, Part 1 & 2 , and the BP-A0408, Acknowledgement of Inmate, Part 3 & 4 forms are also completed.

If the inmate refuses to sign these forms, employees will document this refusal on the form.

f. Providing institution guidelines governing telephone calls (including procedures for making unmonitored calls to an attorney);

g. Provisions for personal hygiene, to include:

- (1) Issue of personal hygiene items;**
- (2) Issue of clean clothing; and**
- (3) Opportunity for shower and hair care;**
- (4) Feminine hygiene products as outlined in the Program Statement **Female Offender Manual****

h. Orientation;

Pretrial inmates are not required to participate in the institution's Admission and Orientation (A&O) program but, must attend a modified A & O program which includes information on the Bureau's Sexually Abusive Behavior Prevention and Intervention Program within 30 days of intake. This is documented on the BP-A0518, Institution Admission and Orientation Program Checklist. Inmates are also required to receive, during intake, a copy of the A&O handbook, which includes the Prison Rape Elimination Act (PREA) A & O Brochure and the Inmate's Rights and Responsibilities. Receipt of the A & O Handbook, as well as the PREA

brochure and Inmate's Rights and Responsibilities, are documented on the Bureau's Inmate Information System generated intake screening form.

See the Program Statement **Admission and Orientation** and the Program Statement **Sexually Abusive Behavior Prevention and Intervention Program**.

i. Opportunity for waiver of right not to work;

Pretrial inmates are given the opportunity to waive the right not to work. Inmates may decide to waive, or rescind a waiver, at any time. The work waiver portion of BP-A0203, Federal Prison System Pretrial Inmate Work Waiver/Notice of Separation must be used to document the waiver or its rescission.

j. Assignment to an appropriate housing unit;

Thorough screening and sound professional judgment are essential to ensure pretrial inmates' safety and security. The screening process should identify seriously ill, violent, aggressive, escape risk, or high-profile inmates who require closer supervision. If a pretrial inmate is charged with a misdemeanor or committed for civil contempt, see Section. 5.b, Search of the inmate, regarding housing.

7. INITIAL ASSESSMENT OF PRETRIAL INMATES.

Within the first 48 hours of admission, an initial assessment, separate from the medical and social intake screening, must be completed. A systematic procedure for interviewing pretrial inmates thoroughly minimizes risks. Procedures specified in this Section are to augment those in the Program Statement **Intake Screening**.

- a. **Intake Screening Employees.** Typically, employees conducting intake screening are Unit Managers, Case Managers, Correctional Counselors, and qualified health care provider; however, the Warden may identify other employees based on institution capabilities and needs. Institution Supplements must also provide for screening inmates returning from court, as events at court may alter the inmate's separation and/or security needs.
- b. **Information Needed.** Unit employees must actively seek information which may pertain to the inmate's behavior or offense severity, thereby helping to determine the inmate's security, medical, psychological, and/or other special needs. Unit employees should document an initial impression and make a recommendation for housing to the Unit Manager.

Normally, the decision of a housing assignment for a pretrial inmate is not delegated below the

Unit Manager level. Alternate procedures may be implemented based on institution needs only with specific written guidelines approved by the Warden.

The inmate is to be interviewed using the BP-A0562, Pretrial Inmate Interview form. When indicated, contact is to be made with other agencies to seek additional information. Sufficient information must be available to complete the Pretrial Inmate Interview form.

Information obtained during the initial intake screening and subsequent interviews will be documented, placed into the inmate's pretrial drop file folders, and used in subsequent reviews.

(1) **Assessment Sources.** Information used to complete the Pretrial Inmate Interview form may be obtained from the following sources:

- BP-A0377, Prisoner Remand form and accompanying booking information - both verbal and written
- Medical/psychological screening
- Intake screening information
- U.S. Probation and Pretrial Services
- Arresting agency
- U.S. Attorney's Office
- U.S. Marshals Service
- Prior institution reports (federal, state, and local)
- Inmate interview
- Medical reports
- Defense attorney
- Inmate's family
- Bureau Inmate Information System.

(2) **Assessment Information.** The following is the type of information used to determine an inmate's security requirements and health/psychological needs:

- Separatee information
- Prior criminal history
- Record of violence
- Escape or attempted escape (secure or non-secure facility, etc.)
- Current offense/charge
- Prior institutional adjustment
- Age
- Behavior/attitude during intake screening
- Special needs (psychological, medical, suicide risk)
- Alcohol or drug abuse
- Detainer or other pending charges
- Bond information

- Group affiliations (gangs, cartel, organized crime)
- Identifying marks or tattoos
- Prior law enforcement
- Notoriety, high profile cases in the media
- Potential length of sentence.

- c. **Health Services Evaluation.** An initial assessment of an inmate’s medical and mental health status is made during the intake screening and medical interviews. A qualified health professional must conduct the screening.

The Warden will establish procedures with the local USMS and other appropriate federal agencies for new arrestees who need medical care beyond that available at the institution. A referral to a Psychologist should be made at this stage, if indicated or requested by the inmate.

- d. **Non-English-Speaking Inmates.** Efforts will be made to communicate in an inmate’s native language. Translations of local documents, forms, and records may be used in accordance with the Program Statement **Language Translations Used in Official Documentation.**

8. HOUSING

§551.104 Housing.

To the extent practicable, pretrial inmates will be housed separately from convicted inmates.

- a. **Security Threat Inmates.** A pretrial inmate who presents a risk to the institution’s security and orderly running will be housed where appropriate security is provided. When practicable, separation from convicted inmates must be maintained. At each review, employees must consider whether that inmate is appropriate for placement in less secure housing (see Section 8 of this Program Statement).
- b. **Deportable Non-U.S. Citizen Detainee.** A deportable non-U.S. citizen detainee who remains in Bureau custody immediately after completing the term of incarceration does not need to be housed in a pretrial or special housing unit separate from convicted inmates. Programming and work, other than housekeeping tasks in the inmate’s cell and in the community living area, remain voluntary.
- c. **Bureau Inmate Information System Review.** Prior to any housing change, employees

must review the Bureau's Inmate Information System for information regarding possible separatees and other management concerns and document this review in the inmate's pretrial drop file folders.

- d. **Change In Status.** Because pretrial inmates are housed separately to the extent practicable from inmates who are convicted and awaiting sentence, employees should verify as quickly as possible the status of a pretrial inmate who is returning from a court appearance and who had been separated from convicted inmates. When a pretrial inmate is convicted and awaiting sentencing, the inmate no longer needs to be separated from convicted inmates.

When employees receive official notification a pretrial inmate has pleaded or been found guilty, the inmate is no longer considered pretrial, and employees must change the admission assignment from pretrial to unsentenced holdover immediately, pending sentencing. Once sentenced and the inmate is pending initial designation and movement, Correctional Systems Employees will update the admission status from unsentenced holdover to holdover. The inmate will remain in holdover status until received at their designated institution.

Close coordination with other agencies such as the U.S. Attorney's Office, Clerk of the Court, U.S. Pretrial and Probation Services, and the USMS is encouraged.

- e. **Responsibility.** The Warden will delegate responsibility for supervising the housing area for pretrial inmates to a full-time manager or supervisor.

9. CUSTODY

§551.105 Custody.

- a. **Staff ordinarily will supervise a pretrial inmate as if classified "In" custody.**
- b. **Where circumstances warrant, staff may supervise a pretrial inmate according to procedures for other custody levels.**

Employees may consider a custody increase if verifiable information is available to justify such action. A memorandum approving this action, signed by the Warden, will be maintained in the inmate's pretrial drop file folders.

A reduction in custody requires the Regional Director's approval. In making this decision, all relevant information will be forwarded to the Regional Office for consideration. The Regional Director will maintain a written record, including reasons for approval or denial.

10. INSTITUTIONAL EMPLOYMENT

§551.106 Institutional Employment.

Unless a pretrial inmate signs a waiver of his or her right not to work, the Warden may not require the inmate to work in any assignment other than housekeeping tasks in the inmate's own cell and in the community living area.

11. PRETRIAL INMATE REVIEWS

§551.107 Pretrial inmate reviews.

Staff shall conduct regular reviews of a pretrial inmate's status.

The Unit Manager is responsible for ensuring the scheduling of pretrial inmate reviews. At a minimum, the Unit Manager, Case Manager, and Correctional Counselor will attend pretrial inmate reviews.

Unit employees monitor an inmate's status to include whether the inmate's case has been adjudicated, through either the pleading or finding of guilt. Additionally, unit employees should be aware of court appearance dates and will facilitate movement. Typically, in any pretrial population, there are high security, high profile inmates who may pose significant threats to other inmates, themselves, employees, or to the community. The need to identify and monitor these inmates regularly is paramount.

During each inmate Program Review, the Unit Manager is responsible for reviewing work, programming, and housing unit assignments for transgender and intersex inmates, per Prison Rape Elimination Act (PREA) guidelines. Reviews are documented in the pretrial drop file folders on the BP-A0381, Inmate Activity Record. See the Program Statements Sexually Abusive Behavior Prevention and Intervention Program and Transgender Offender Manual.

a. Each pretrial inmate shall be scheduled for an initial review by the unit team within 21 calendar days of the inmate's first arrival at the institution, and subsequent reviews shall be conducted at least every 90 days.

The initial and subsequent reviews will assess all factors relating to the inmate's detention, including the practicability of separation from convicted inmates.

Inmates identified as convicted, but not yet sentenced, will be scheduled for inmate reviews consistent with the scheduling of pretrial inmate reviews. Similarly, employees should be

aware of court appearance dates and will facilitate movement to the institution upon sentencing and designation.

- b. The inmate shall be notified at least 48 hours prior to the inmate's scheduled review.**
- c. A pretrial inmate is expected to attend these reviews. If the inmate refuses to appear, staff shall document in the record of the meeting the inmate's refusal and, if known, the reason for refusal.**
- d. Inmate reviews are to be documented on the Pretrial Inmate Review Report.**

A BP-A0561, Pretrial Inmate Review Report form will be used.

12. PERFORMANCE PAY

§551.108 Performance pay.

The Warden may approve a pretrial inmate for performance pay and special awards.

13. COMMUNITY ACTIVITIES

§551.109 Community activities.

- a. The Warden may not grant a furlough to a pretrial inmate (18 U.S.C. § 3622).**
- b. In an emergency, staff shall facilitate contact with the pretrial inmate's attorney of record, who may seek from the court a decision concerning release from custody or an escorted trip.**

In addition, employees will notify the U.S. Attorney's Office assigned to the case and the USMS of the existing emergency. Employees will document contact with each of these agencies in the inmate's pretrial drop file folders.

- c. Except by order of the court, a pretrial inmate may not be considered for participation in community programs.**

The Warden will establish procedures with the USMS when it is necessary to escort a pretrial inmate.

14. RELIGIOUS PROGRAMS

§551.110 Religious programs.

- a. When consistent with institution security and good order, pretrial inmates may be allowed the opportunity to participate in religious programs with convicted inmates.**
- b. Staff shall ensure that pretrial inmates who do not participate in religious programs with convicted inmates have access to other religious programs.**

15. MARRIAGE

§551.111 Marriage.

A pretrial inmate may request permission to marry in accordance with current Bureau of Prisons policy for convicted inmates. Staff shall contact the court, U.S. Attorney, U.S. Marshals Service, and in the case of an alien, the Immigration and Naturalization Service, to advise of the marriage request of the pretrial inmate and to request their comments.

See the Program Statement **Marriage of Inmates**.

Employees will document all contacts with liaison officials in the inmate's pretrial drop file folders.

Note: U.S. Immigration and Customs Enforcement (ICE) has replaced the Immigration and Nationalization Service (INS).

16. EDUCATION

§551.112 Education.

- a. A pretrial inmate may participate in correspondence and self-study educational courses. Institutional staff may also arrange for educational assistance to the pretrial inmate through the use of contract personnel or community volunteers.**
- b. When consistent with institution security and good order, pretrial inmates may have access to the institution's educational program.**

17. COUNSELING

§551.113 Counseling.

- a. When consistent with institution security and good order, pretrial inmates may be allowed the opportunity to receive counseling services with convicted inmates.**

The Correctional Counselor provides counseling and guidance for the inmates of their unit in areas of institutional adjustment and personal difficulties. Additionally, the Correctional Counselor must provide a minimum of four hours of employee-led, structured group counseling per month. The Correctional Counselor monitors the inmate's general adjustment, living quarter's sanitation, work assignments, and performance in assigned programming.

- b. Staff shall ensure that pretrial inmates who do not receive counseling services with convicted inmates have access to other counseling services.**

18. MEDICAL, PSYCHIATRIC AND PSYCHOLOGICAL

§551.114 Medical, psychiatric and psychological.

- a. Staff shall provide the pretrial inmate with the same level of basic medical (including dental), psychiatric, and psychological care provided to convicted inmates.**

When a pretrial inmate is undergoing psychiatric evaluation or treatment, local procedures will be developed to ensure psychiatry/psychology employees determine the competency of a pretrial inmate who requests to waive his or her right not to work. If the inmate is not competent to understand the consequences of signing the work waiver, the inmate may not be compelled to work other than to perform housekeeping tasks in the inmate's own cell or in the community living area.

- b. Staff shall advise the court, through the U.S. Marshal, of medication the pretrial inmate receives which may alter the inmate's courtroom behavior.**

Evaluation of the need for court notification must be made for all medication contemplated for a pretrial inmate. Special care must be taken when evaluating the possible impact of medication which may be used to treat psychiatric conditions, even if the instant proposed use is for a non-psychiatric condition.

A copy of all court notifications will be provided to the U.S. Attorney's Office and the inmate's attorney. Notification responsibilities may not be delegated below the department head level.

Local procedures will be established with the USMS and the U.S. Attorney's office regarding the preferred method of notification.

Psychiatric Medication. For forensic pretrial inmates, court notification should be made in accordance with the Program Statement **Psychiatric Evaluation and Treatment**. For non-forensic pretrial inmates, court notifications must occur as soon as possible.

Employees are encouraged to consult with institution legal employees or their local Consolidated Legal Center (CLC), as appropriate, when inmates are prescribed these types of medications. Notification to the court for either forensic or non-forensic cases should be made by a qualified employee (e.g., Psychiatrist, Physician, Psychologist, Health Services Administrator, etc.). Procedures for notifying the court will be outlined in the Institution Supplement.

- c. In event of serious illness or death of a pretrial inmate, staff shall notify the committing court, U.S. Marshal, U.S. Attorney's Office, the inmate's attorney of record, and the designated family member or next of kin.**

In the event of a pretrial inmate death, the Warden will confirm these notifications in a letter explaining the circumstances of the death, with a copy to the Regional Director.

Note: As **pretrial** inmates are U.S. Marshal inmates rather than Bureau inmates, the release code for inmate death is not appropriate. Rather, the inmate should be keyed as a pretrial or holdover release.

19. RECREATION

§551.115 Recreation.

- a. When consistent with institution security and good order, pretrial inmates may be allowed the opportunity to participate with convicted inmates in recreational activities. Staff shall ensure that inmates who do not participate in recreational activities with convicted inmates have access to other recreational activities.**
- b. At a minimum, and except as noted in paragraph (d) of this section, staff shall provide the pretrial inmate with the following recreational opportunities:**
 - (1) One hour daily of outside recreation, weather permitting; or**
 - (2) Two hours daily of indoor recreation.**

- c. **Staff shall make recreation equipment available to the pretrial inmate including, but not limited to, physical exercise equipment, books, table games, and television.**
- d. **Staff shall provide the pretrial inmate housed in Administrative Detention or Disciplinary Segregation with exercise as provided by the Bureau of Prisons rules on inmate discipline. (See 28 CFR part 541, subpart B.)**

See the Program Statement **Special Housing Units** for more information.

- e. **Provisions of paragraphs (b) and (c) of this section must be carried out unless compelling security or safety reasons dictate otherwise. Institution staff shall document these reasons.**

20. DISCIPLINE

§551.116 Discipline.

- a. **Staff shall require the pretrial inmate to abide by Bureau of Prisons rules on Inmate Discipline (see 28 CFR part 541, subpart B), subject to the limitations of §551.106 of this part.**
- b. **Staff shall advise the court, through the U.S. Marshal, of repeated or serious disruptive behavior by a pretrial inmate.**
 - 1. Employees will also advise the relevant U.S. Attorney's Office of repeated or serious disruptive behavior by a pretrial inmate.
 - 2. When a pretrial inmate violates any Bureau rule on inmate discipline, not just repeated or serious disruptive behavior, the United States Probation Office assigned to prepare the Presentence Investigation Report must be advised.

Local procedures will be established with the USMS, the U.S. Attorney's Office, and the USPO regarding the preferred method of notification.

Copies of the notifications will be provided by the inmate's Unit Team to the Designation and Sentence Computation Center after the inmate is sentenced to facilitate the appropriate institution designation.

21. ACCESS TO LEGAL RESOURCES

§551.117 Access to legal resources.

- a. The Warden shall provide the opportunity for pretrial inmate-attorney visits on a seven-days-a-week basis.**

Attorney visits for pretrial inmates may be conducted at times other than established visiting hours with the approval of the Warden or designee. Wardens will establish hours for attorney visiting and communicate them to the local legal community.

Alternative Legal Access Arrangements. To ensure inmates have access to legal counsel as soon as it is safely possible after a significant or disruptive event at a facility exceeds 24 hours, each facility will develop alternative legal access arrangements. These plans may include, but are not limited to, alternative visiting locations at the facility, expansion of normal visiting hours, and any additional procedures consistent with the mission and security of the facility. Restriction of legal access should occur only when necessary to protect the safety and security of employees, inmates, or the public.

- b. Staff shall provide pretrial inmates with access to legal materials in the institution.**

A basic law library is to be established for pretrial housing units if inmates in these units do not have access to the institution's main law library. Procedures for obtaining legal material not contained in a basic law library, but contained in the institution's main law library, will be established locally (see the Program Statement **Legal Activities, Inmate**).

- c. Staff shall allow the pretrial inmate, upon the inmate's request, to telephone the inmate's attorney as often as resources of the institution allow.**

See the Program Statement **Inmate Telephone Regulations**.

22. VOTING

Pretrial incarceration does not affect pretrial inmate voting rights. This means whatever the inmate's voting status was prior to entering Bureau custody does not change unless and until they are convicted. For additional information, please see the Correctional Systems page on the Bureau's intranet.

23. PROPERTY

§551.118 Property.

- a. **A pretrial inmate may retain personal property as authorized for convicted inmates housed in administrative detention units. (See 28 CFR part 541, subpart B.)**

See the Program Statement **Special Housing Units** for more information.

Institution procedures will be consistent with any instructions from the court. Institution employees are responsible for proper storage and accountability of a pretrial inmate's property.

Property that cannot be stored due to lack of space at the institution will be mailed at government expense to an address supplied by the inmate.

See the Program Statement **Inmate Personal Property** for more information.

- b. **Staff may store the pretrial inmate's unauthorized personal property until the individual is released, transferred to another facility, or sentenced and committed to a federal institution.**
- c. **Staff may supply the pretrial inmate with clothing for court appearances, or the inmate may supply his or her own.**

Exchanges will be authorized at least once a week. When the institution provides the pretrial inmate with court clothing, the court is to be contacted to determine the minimum clothing requirements deemed appropriate for courtroom appearances.

24. **RELEASE OF FUNDS AND PROPERTY OF PRETRIAL INMATES**

§551.119 Release of funds and property of pretrial inmates.

- a. **Staff shall establish procedures which allow for the release of funds and personal property to pretrial inmates released during other than normal business hours.**
- b. **Staff shall ensure that pretrial inmates are informed of existing policy relative to the commissary account and the deposit/release of funds.**

See the Program Statement **Trust Fund/Deposit Fund Manual** for more information.

25. **VISITING**

§551.120 Visiting.

Staff shall allow pretrial inmates to receive visits in accordance with the Bureau's rule and local institution guidelines on visiting. Staff may allow a pretrial inmate special visits to protect the inmate's business interests or to help prepare for trial.

At a minimum, pretrial inmates will receive approval for visits from immediate family. These persons include mother, father, stepparents, foster parents, brothers and sisters, spouse, and children.

See the Program Statement **Visiting Regulations**.

26. NOTIFICATION OF DISRUPTIONS TO INSTITUTION OPERATIONS. In instances where there is a significant or disruptive event affecting the conditions of confinement and, institution management decides to restrict legal access and/or social visiting, employees must make all reasonable efforts to notify all known parties affected by the disruption. This includes, but is not limited to inmate families, defense counsel, local courts, and the public. For facilities housing pretrial inmates, such notice must also be made to the local Federal Public Defender Office(s), the local United States District Court(s), and the local United States Attorney's Office(s). This information can be transmitted via telephone, email, or listed on the Institution's webpage.

REFERENCES

US Code Referenced

Title 28 CFR, Section 551.100-120

ACA Standards

- American Correctional Association **5th** Edition Standards for Adult Correctional Institutions: 5-ACI-4A-17, 5-ACI-4A-26, 5-ACI-5D-15, 5-ACI-6A-01M, 5-ACI-6A-21M, 5-ACI-6A-37, 5-ACI-6A-40
- American Correctional Association **4th** Edition Standards for Adult Local Detention Facilities: 4-ALDF-2A-57, 4-ALDF-2A-65, 4-ALDF-4B-07, 4-ALDF-4C-01M, 4-ALDF-4C-22M, 4-ALDF-4C-34, 4-ALDF-4C-35.

Program Statements

P1315.07 ^{CN-1} Legal Activities, Inmate (8/1/2023)

P1505.03 Language Translations Used in Official Documentation (10/31/1997)

P4500.12 Trust Fund/Deposit Fund Manual (3/14/2018)

P5200.07 ^{CN-1} Female Offender Manual (7/8/2022)
P5200.08 Transgender Offender Manual (1/13/2022)
P5264.08 Inmate Telephone Regulations (1/24/2008)
P5267.09 ^{CN-1} Visiting Regulations (8/1/2023)
P5270.09 ^{CN-1} Inmate Discipline Program (11/18/2020)
P5270.11 Special Housing Units (11/23/2016)
P5290.14 Admission and Orientation Program (04/3/2003)
P5290.15 Intake Screening (3/30/2009)
P5324.12 Sexually Abusive Behavior Prevention and Intervention Program (6/4/2015)
P5326.05 Marriages of Inmates (9/22/2011)
P5800.18 Receiving and Discharge Manual (8/12/2014)
P5880.08 Inmate Personal Property (8/22/2011)
P6010.03 Psychiatric Evaluation and Treatment (8/12/2011)

Bureau forms

BP-A0203 Federal Prison System Pretrial Inmate Work Waiver/Notice of Separation
BP-A0377 Prisoner Remand
BP-A0381 Inmate Activity Record
BP-A0407 Acknowledgement of Inmate, Part 1 & 2
BP-A0408 Acknowledgement of Inmate, Part 3 & 4
BP-A0518 Institution Admission and Orientation Program Checklist
BP-A0562 Pretrial Inmate Interview Form
BP-A0561 Pretrial Inmate Review Report

Records Retention

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on the agency intranet.