

**DEPARTMENT OF JUSTICE****Bureau of Prisons****28 CFR Part 524****[BOP-1043-F]****RIN 1120-AA43****Central Inmate Monitoring (CIM) System****AGENCY:** Bureau of Prisons, Justice.**ACTION:** Final rule.

**SUMMARY:** In this document the Bureau of Prisons is revising its regulations on the central inmate monitoring system for general clarity, to remove obsolete categories, to update staff responsibilities, and to make various changes in administrative procedures. This revision is intended to provide for the continued secure operation of Bureau institutions.

**EFFECTIVE DATE:** July 31, 1996.

**ADDRESSES:** Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

**FOR FURTHER INFORMATION CONTACT:** Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

**SUPPLEMENTARY INFORMATION:** The Bureau of Prisons is amending its regulations on the central inmate monitoring (CIM) system. A final rule on this subject was published in the Federal Register September 14, 1990 (55 FR 38007).

The CIM system is an administrative program which allows the Bureau to monitor and control the transfer, temporary release, and community activities of inmates who present special needs for management. Examples of such inmates include participants in Witness Security programs, members of gangs or disruptive groups, and inmates who, for their own safety, need to be separated from other identified inmates. The CIM system operates to protect such inmates. In keeping with the regulatory goals of E.O. 12866, the Bureau is revising the entire regulation for the sake of general clarity. The acronym CIM is used more consistently throughout the regulations. Other specific changes are discussed below.

Section 524.70 has been revised to remove redundancy and improve readability. There is no change in the intent of this section.

Section 524.71 has been revised to specify the Case Management Coordinator as the official responsible for oversight and coordination of CIM activities at the institution.

Section 524.72 has been amended to remove the assignment category of sophisticated criminal activity and to rename the assignment category "security threat groups" as "disruptive group". In addition, the provisions for separation in new paragraph (f) have been amended to note the accommodation of separatees in institutions which have the ability to prevent physical contact between separatees.

Former §§ 524.73 and 524.74 have been combined in new § 524.73 covering classification procedures. Paragraph (a) of new § 524.73 covers procedures for the initial assignment of a CIM classification. These provisions were previously contained in former §§ 524.73(a), and 524.74 (a) and (b). Paragraph (b) of new § 524.73 covers procedures for notification to inmates of CIM classification actions. These provisions were previously contained in former § 524.73 (b), (c), and (d) and in § 524.78. Paragraph (c) of new § 524.73 covers procedures for the initial review of a CIM assignment. These provisions were previously contained in former § 524.74 (d) and (f).

The provisions of former § 524.74(e) have been removed. New § 524.73(a) allows for classification of pretrial inmates, and further specification as to appropriate assignments or procedures is either unnecessary or redundant.

New § 524.74 revises provisions for activities clearance which were contained in former § 524.75. These provisions have been revised for the sake of administrative streamlining. The revised provisions allow for approval by the Warden in all cases except for non-medical emergency clearances of Witness Security cases.

New § 524.75 revises the provisions for periodic review of CIM status contained in former § 524.76. These revisions have been made for the sake of clarity and organization. Provisions on notification contained in paragraph (a) of former § 524.76 have been consolidated into the general requirements for notification in new § 524.73(b). Provisions in paragraph (b) of former § 524.76 for the removal of Department of Justice Witness Security cases have been consolidated into the general requirements for removal of a CIM classification in new § 524.73(d). Provisions in paragraph (c) of former § 524.76 on State prisoner assignments have been consolidated into new § 524.73(a)(2).

New § 524.76 revises the provisions in former § 524.77 for appeals of a CIM classification to conform to previously published revisions in the Administrative Remedy Program (28

CFR part 542) which allow for inmates housed in Community Corrections Centers to file a request with the Community Corrections Manager.

The provisions in former § 524.78 on classification of recommitted offenders have been removed because these provisions have been consolidated into new § 524.73.

Because these provisions impose no further restrictions on inmates and deal with agency procedures designed to help ensure the continued protection of inmates, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the Federal Register.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), does not have a significant economic impact on a substantial number of small entities, within the meaning of the Act. Because this rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, its economic impact is limited to the Bureau's appropriated funds.

**List of Subjects in 28 CFR Part 524****Prisoners.**

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*Director, Bureau of Prisons.*

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 524 in subchapter B of 28 CFR, chapter V is amended as set forth below.

**SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER****PART 524—CLASSIFICATION OF INMATES**

1. The authority citation for 28 CFR part 524 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3521-3528, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses

committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. Subpart F is revised to read as follows:

**Subpart F—Central Inmate Monitoring (CIM) System**

Sec.

- 524.70 Purpose and scope.
- 524.71 Responsibility.
- 524.72 CIM assignment categories.
- 524.73 Classification procedures.
- 524.74 Activities clearance.
- 524.75 Periodic review.
- 524.76 Appeals of CIM classification.

**Subpart F—Central Inmate Monitoring (CIM) System**

**§ 524.70 Purpose and scope.**

The Bureau of Prisons monitors and controls the transfer, temporary release (e.g., on writ), and community activities of certain inmates who present special needs for management. Such inmates, known as central inmate monitoring (CIM) cases, require a higher level of review which may include Central Office and/or Regional Office clearance for transfers, temporary releases, or community activities. This monitoring is not to preclude a CIM case from such activities, when the inmate is otherwise eligible, but rather is to provide protection to all concerned and to contribute to the safe and orderly operation of federal institutions.

**§ 524.71 Responsibility.**

Authority for actions relative to the CIM system is delegated to the Assistant Director, Correctional Programs Division, to Regional Directors, and to Wardens. The Assistant Director, Correctional Programs Division, and Regional Directors shall assign a person responsible for coordinating CIM activities. The Case Management Coordinator (CMC) shall provide oversight and coordination of CIM activities at the institutional level, and the Community Corrections Manager shall assume these responsibilities for contract facilities.

**§ 524.72 CIM assignment categories.**

CIM cases are classified according to the following assignments:

(a) *Witness Security cases.* Individuals who agree to cooperate with law enforcement, judicial, or correctional authorities, frequently place their lives or safety in jeopardy by being a witness or intended witness against persons or groups involved in illegal activities. Accordingly, procedures have been developed to help ensure the safety of these individuals. There are two types of Witness Security cases: Department

of Justice (authorized by the Attorney General under Title V of Public Law 91–452, 84 Stat. 933); and Bureau of Prisons Witness Security cases (authorized by the Assistant Director, Correctional Programs Division).

(b) *Threats to Government officials.* Inmates who have made threats to government officials or who have been identified, in writing, by the United States Secret Service as requiring special surveillance.

(c) *Broad publicity.* Inmates who have received widespread publicity as a result of their criminal activity or notoriety as public figures.

(d) *Disruptive group.* Inmates who belong to or are closely affiliated with groups (e.g., prison gangs), which have a history of disrupting operations and security in either state or federal penal (which includes correctional and detention facilities) institutions. This assignment also includes those persons who may require separation from a specific disruptive group.

(e) *State prisoners.* Inmates, other than Witness Security cases, who have been accepted into the Bureau of Prisons for service of their state sentences. This assignment includes cooperating state witnesses and regular state boarders.

(f) *Separation.* Inmates who may not be confined in the same institution (unless the institution has the ability to prevent any physical contact between the detainees) with other specified individuals who are presently housed in federal custody or who may come into federal custody in the future. Factors to consider in classifying an individual to this assignment include, but are not limited to, testimony provided by or about an individual (in open court, to a grand jury, etc.), and whether the inmate has exhibited aggressive or intimidating behavior towards other specific individuals, either in the community or within the institution. This assignment also includes those inmates who have provided authorities with information concerning the unauthorized or illegal activities of others. This assignment may also include inmates from whom there is no identifiable threat, but who are to be separated from others at the request of the Federal Judiciary or U.S. Attorneys.

(g) *Special Supervision.* Inmates who require special management attention, but who do not ordinarily warrant assignment in paragraphs (a) through (f) of this section. For example, this assignment may include an inmate with a background in law enforcement or an inmate who has been involved in a hostage situation. Others may include

those who are members of a terrorist group with a potential for violence.

**§ 524.73 Classification procedures.**

(a) *Initial assignment.* Except as provided for in paragraphs (a) (1) through (4) of this section, an inmate (including pretrial inmates) may be classified as a CIM case at any time by a Community Corrections Manager or by appropriate staff at the Central Office, Regional Office, or institution. This initial classification is effective upon documentation in the inmate's record.

(1) *Witness Security cases.* Witness Security cases are designated by the Central Office only. An inmate's participation in the Department of Justice Witness Security Program is voluntary. A commitment interview and an admission and orientation interview are to be conducted with the Witness Security inmate to ensure that the inmate understands the conditions of confinement within the Bureau of Prisons. Central Office classification of an individual as a Witness Security case, under either the Department of Justice or Bureau of Prisons, does not require additional review, and overrides any other CIM assignment.

(2) *State prisoners.* Appropriate staff in the Central Office or Regional Office designate state prisoners accepted into the Bureau of Prisons from state or territorial jurisdictions. All state prisoners while solely in service of the state sentence are automatically included in the CIM system to facilitate designations, transfers, court appearances, and other movements.

(3) *Special supervision.* Placement in this assignment may be made only upon the authorization of a Regional Director or the Assistant Director, Correctional Programs Division.

(4) *Recommitted offenders.* An inmate who is recommitted to federal custody, who at the time of release was classified as a CIM case, retains this classification pending a review of the CIM status in accordance with paragraph (c) of this section.

(b) *Notification.* The case manager shall ensure that the affected inmate is notified in writing as promptly as possible of the classification and the basis for it. Witness Security cases will be notified through a commitment interview. The notice of the basis may be limited in the interest of security or safety. For example, in separation cases under § 524.72, notice will not include the names of those from whom the inmate must be separated. The inmate shall sign for and receive a copy of the notification form. If the inmate refuses to sign the notification form, staff witnessing the refusal shall indicate this

fact on the notification form and then sign the form. Notification is not required for pretrial inmates. Any subsequent modification of a CIM assignment or removal from the CIM system requires separate notification to the inmate.

(c) *Initial review.* A classification may be made at any level to achieve the immediate effect of requiring prior clearance for an inmate's transfer, temporary release, or participation in community activities. Except for Central Office or Regional Office classification of an individual as a state prisoner in sole service of the state sentence or for classification of pretrial inmates made by designated staff at the institution, a review by designated staff (ordinarily within 60 days of notification to the inmate) is required to determine whether a sound basis exists for the classification. Staff making the initial classification shall forward to the reviewing authority complete information regarding the inmate's classification. An inmate not notified of a change in the classification by the reviewing authority within 60 days from the date of the initial notification may consider the CIM classification final. Reviewing authorities for CIM classification are:

(1) *Central Office Inmate Monitoring Section*—reviews classification decisions for all future separation assignments (including recommitments) for Witness Security cases and for any combination of assignments involving Witness Security cases.

(2) *Regional Office*—reviews CIM classification decisions for Disruptive Group, Broad Publicity, Threat to Government Officials, Special

Supervision, State Prisoners not in sole service of state sentence and initial multiple assignments except Witness Security Cases.

(3) *Warden, or Designee*—reviews CIM classification decisions for all separation assignments.

(d) *Removal.* (1) Because participation in the Department of Justice Witness Security Program is voluntary, such participants may request removal from this assignment at any time. Such request shall be forwarded to the Central Office Inmate Monitoring Section. Actual removal of the CIM assignment will not occur until after approval from the Department of Justice is received.

(2) The reviewing authority is responsible for determining if removal or modification of any CIM classification other than a Department of Justice Witness Security case is appropriate. The inmate retains the CIM classification pending a decision by the reviewing authority.

(3) When an inmate is removed for any reason from a CIM classification (for example, because the reviewing authority either disapproves the CIM classification or approves removal of a CIM classification based on new information), the appropriate staff member shall ensure that the relevant portions of the inmate central file are either removed or, when part of a larger document, are amended to clearly reflect removal of the CIM assignment. Staff shall notify the inmate of the decision and document any change in the inmate's record, and supportive documentation and the written basis for removal are to be retained in the inmate privacy file.

#### **§ 524.74 Activities clearance.**

(a) Except as provided for in paragraph (b) of this section, the Warden is the clearance authority on all transfers, temporary releases, community activities, and escorted trips.

(b) *Witness Security cases.* Central Office Inmate Monitoring Section staff shall be the clearance authority on all transfers, temporary releases, community activities, and escorted trips for Witness Security cases, except in a medical emergency. In a medical emergency, the Warden may transfer a Witness Security case to a local hospital for emergency medical care without prior clearance.

#### **§ 524.75 Periodic review.**

The Warden shall ensure that the status of an inmate's CIM assignment is considered at each program review. When staff believe that removal or modification of a CIM classification is appropriate, the institution's CMC and the appropriate reviewing authority must be notified. Only the reviewing authority shall determine if removal or modification of the CIM classification is appropriate.

#### **§ 524.76 Appeals of CIM classification.**

An inmate may at any time appeal (through the Administrative Remedy Program) the inmate's classification as a CIM case. Inmates identified as Witness Security cases may choose to address their concerns directly to the Inmate Monitoring Section, Central Office, rather than use the Administrative Remedy Program.

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