

§ 541.40

28 CFR Ch. V (7-1-10 Edition)

days from the time of their admission (or from the time of their detention beyond their own consent). This hearing is conducted in accordance with the procedural requirements of § 541.17, as to advance written notice, staff representation, right to make a statement and present documentary evidence, to request witnesses, to be present throughout the hearing, and advance advisement of inmate rights at the hearing, and as to making a record of the proceedings.

(c) Ordinarily, staff may place an inmate in administrative detention as provided in paragraph (a) of this rule relating to protection cases, for a period not to exceed 90 days. Staff shall clearly document in the record the reasons for any extension beyond this 90-day period.

(d) Where appropriate, staff shall first attempt to place the inmate in the general population of their particular facility. Where inappropriate, staff shall clearly document the reason(s) and refer the case, with all relevant material, to their Regional Director, who, upon review of the material, may order the transfer of a protection case.

Subpart C [Reserved]

Subpart D—Control Unit Programs

SOURCE: 49 FR 32991, Aug. 17, 1984, unless otherwise noted.

§ 541.40 Purpose and scope.

(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.

(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.

§ 541.41 Institutional referral.

(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.

(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.

(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.

(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;

(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.