

DEPARTMENT OF JUSTICE**Bureau of Prisons****28 CFR Part 552****[BOP-1053-F]****RIN 1120-AA41****Use of Force and Application of Restraints****AGENCY:** Bureau of Prisons, Justice.**ACTION:** Final rule.

SUMMARY: In this document, the Bureau of Prisons is amending its rule on Use of Force and Application of Restraints to require staff checks on inmates in four-point restraints at least every 15 minutes. Additional changes have been made for clarification or for editorial purposes. This amendment is intended to provide for the continued security and good order of the institution and the safety and well-being of inmates.

EFFECTIVE DATE: July 30, 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 rule on Use of Force and Application of Restraints (28 CFR 552, subpart C, which was published in the Federal Register May 17, 1989 (54 FR 21394) and amended June 13, 1994 (59 FR 30468).

In accordance with revised American Correctional Association standards, the Bureau is increasing the frequency to at least every 15 minutes for staff monitoring of an inmate in four-point restraints. Previously, staff were required to check the inmate at least every 30 minutes (see former § 552.24(d)). Additional changes to the Bureau's regulations being made for clarification or editorial purposes are described below.

Section 552.20 is amended to reduce repetitious use of "inmate" in paragraphs (a) through (e). Section 552.21 is amended to include the phrase "using sound correctional judgment" as a qualifier rather than the previous phrase "with correctional experience". The revised phrase more accurately describes the qualitative nature of the standard and is used more consistently in the Bureau's regulations. In § 552.22, paragraph (c) is amended to include further paragraph designations (1) through (3) for the sake of clarity; the

opening sentence of paragraph (g) of the section is amended for stylistic reasons. In § 552.24, the introductory paragraph is amended to clarify that the determination on the use of four-point restraints is made by the Warden. Paragraph (a) of the section is revised to include further paragraph designations (1) and (2) for the sake of clarity. Section 552.26 and paragraphs (f) and (g) of § 552.24 are revised to remove unnecessary passive constructions and to revise staff nomenclature ("qualified health personnel" rather than "medical staff").

Because these changes either are administrative or editorial in nature, or provide for the continued safety and well-being of inmates and do not impose further restrictions on 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 pursuant to E.O. 12866. 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 552

Prisoners.

Kathleen M. Hawk,

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), 28 CFR part 552 is amended as follows:

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT**PART 552—CUSTODY**

1. The authority citation for 28 CFR part 552 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 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. In § 552.20, the last sentence of the introductory text and paragraphs (a) through (e) are revised to read as follows (the concluding text to the section remains unchanged):

§ 552.20 Purpose and scope.

* * * Staff are authorized to apply physical restraints necessary to gain control of an inmate who appears to be dangerous because the inmate:

- (a) Assaults another individual;
- (b) Destroys government property;
- (c) Attempts suicide;
- (d) Inflicts injury upon self; or
- (e) Becomes violent or displays signs of imminent violence.

* * * * *

§ 552.21 [Amended]

3. In § 552.21, paragraph (d) is amended by revising the phrase "with correctional experience" to read "using sound correctional judgment".

4. In § 552.22, paragraph (g) is amended by revising the opening phrase "Except where" to read "Except when" and paragraph (c) is revised to read as follows:

§ 552.22 Principles governing the use of force and application of restraints.

* * * * *

(c) Staff shall use only that amount of force necessary to gain control of the inmate. Situations when an appropriate amount of force may be warranted include, but are not limited to:

- (1) Defense or protection of self or others;
- (2) Enforcement of institutional regulations; and
- (3) The prevention of a crime or apprehension of one who has committed a crime.

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5. In § 552.24, the introductory text and paragraphs (a), (f) and (g) are revised, and paragraph (d) is amended by revising the first sentence to read as follows:

§ 552.24 Use of four-point restraints.

When the Warden determines that four-point restraints are the only means available to obtain and maintain control

over an inmate, the following procedures must be followed:

(a) Soft restraints (e.g., vinyl) must be used to restrain an inmate, unless:

(1) Such restraints previously have proven ineffective with respect to that inmate, or

(2) Such restraints are proven ineffective during the initial application procedure.

* * * * *

(d) Staff shall check the inmate at least every 15 minutes, both to ensure that the restraints are not hampering circulation and for the general welfare of the inmate. * * *

* * * * *

(f) When the inmate is placed in four-point restraints, qualified health personnel shall initially assess the inmate to ensure appropriate breathing and response (physical or verbal). Staff shall also ensure that the restraints have not restricted or impaired the inmate's circulation. When inmates are so

restrained, qualified health personnel ordinarily are to visit the inmate at least twice during each eight hour shift. Use of four-point restraints beyond eight hours requires the supervision of qualified health personnel. Mental health and qualified health personnel may be asked for advice regarding the appropriate time for removal of the restraints.

(g) When it is necessary to restrain an inmate for longer than eight hours, the Warden (or designee) or institution administrative duty officer shall notify the Regional Director or Regional Duty Officer by telephone.

6. Section 552.26 is revised to read as follows:

§ 552.26 Medical attention in use of force and application of restraints incidents.

(a) In immediate use of force situations, staff shall seek the assistance of mental health or qualified health personnel upon gaining physical control of the inmate. When possible, staff shall

seek such assistance at the onset of the violent behavior. In calculated use of force situations, the use of force team leader shall seek the guidance of qualified health personnel (based upon a review of the inmate's medical record) to identify physical or mental problems. When mental health staff or qualified health personnel determine that an inmate requires continuing care, and particularly when the inmate to be restrained is pregnant, the deciding staff shall assume responsibility for the inmate's care, to include possible admission to the institution hospital, or, in the case of a pregnant inmate, restraining her in other than face down four-point restraints.

(b) After any use of force or forcible application of restraints, the inmate shall be examined by qualified health personnel, and any injuries noted, immediately treated.

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