



State of North Carolina
Department of Public Safety
Prisons

Chapter: C
Section: .0400
Title: **Maximum Control**
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POLICY & PROCEDURES

.0401 GENERAL

- (a) Maximum Control is the isolation of close custody felon or minimum custody Level I misdemeanor inmates that pose an imminent threat to the life or health of other inmates or staff or to isolate inmates that otherwise pose a most serious threat to the security and integrity of a prison facility. The Director of Prisons shall be authorized to designate facilities or facility components as maximum control units as appropriate and necessary for this purpose. An inmate may be placed in a maximum control status and assigned to a designated facility under the following conditions.
- (1) The inmate has been found guilty of a major disciplinary infraction involving an aggravated assault, active or passive participation in riot or mutiny, or seizing or holding a hostage or in any manner unlawfully detaining any person against their will.
 - (2) Even though there has been no overt act of violence and no offense has been proven, the officer in charge has good cause to believe that in light of all circumstances, the inmate's presence in the general population poses a clear and present danger to the physical well-being of other inmates or members of the staff. A previous history of assaultive behavior is relevant, but not in and of itself determinative. The officer may be convinced that the inmate's verbal and non-verbal behavior indicates that he/she poses an imminent threat of harm to others. Neither insolence toward officials nor the mere suspicion that an inmate may pose a potential threat to the order and the security of the institution is grounds for referral for consideration for a maximum control facility. Referrals for maximum control are made to the Director's Classification Authority (DCA).
- (b) This provision is not to be interpreted as one allowing referral for consideration for confinement to maximum control whenever staff may be suspicious that an inmate may be agitating or plotting some potentially dangerous act. Normally, inmates will not be considered for confinement in maximum control units unless found guilty of an infraction involving aggravated assault, active or passive participation in a riot or mutiny, or seizing or holding a hostage or in any manner unlawfully detaining a person against his/her will. In rare cases, where staff has good cause to believe that an inmate is plotting a riot or insurrection or otherwise threatening the life or health of staff members, the inmate may be immediately referred to the Director's Classification Authority for consideration for maximum control. Participating in, either directly or indirectly, the activities of a validated security group may also be justification for a maximum control assignment under certain circumstances.

.0402 DIRECTOR'S CLASSIFICATION AUTHORITY (DCA)

(a) Procedure

- (1) Every inmate considered for maximum control shall be entitled to an impartial hearing before the Director's Classification Authority. No staff member who provides information against the accused or initiates the referral action may serve as the Director's Classification Authority. The inmate shall receive written notice of the hearing at least forty-eight (48) hours before the hearing takes place. This written notice must reasonably inform the inmate of the reasons for maximum control consideration.
- (2) At the hearing, the inmate shall be confronted with any relevant information tending to indicate that confinement in maximum control is necessary. The content of psychiatric, psychological and classification reports need not be released since release may undermine the subsequent efforts to treat mental disorders or other significant problems and to rehabilitate offenders. The name of the person supplying the information need not be disclosed where the threat of reprisal exists. The inmate will be given the opportunity to refute the information as presented and may submit any relevant information in his own behalf.
- (3) If the inmate has been found guilty of a major infraction by a disciplinary hearing authority as a result of the incident from which the classification review arises, the Director's Classification Authority may rely on these findings. Otherwise, the DCA must make its own findings of facts. In these cases, the DCA will determine whether the complexity of the issue or the illiteracy of the inmate makes it unlikely that he or she will be able to collect and present the evidence necessary for an adequate presentation of the case. If so, the DCA chairperson shall appoint a member of the staff of the facility to which the inmate is assigned to assist the inmate with his or her presentation.
- (4) At the hearing, the Director's Classification Authority will review the factors relevant to a final decision. Neither the staff member presenting the case nor representatives of the referring unit shall be allowed to participate in the actual decision-making process. If the DCA determines that, based on the disciplinary report or the information presented, maximum control is appropriate, the inmate will be classified in that status. In all such cases, the inmate involved shall be entitled to a written summary of the facts upon which the DCA relied in making the determination. If the DCA differs with the referring facility's recommendation and decides maximum control is inappropriate, the DCA shall make a recommendation to the Manager of Classification, the Assistant Director of Support Services or other designated approving authority who will confer with the appropriate Region Director or designee prior to rendering a final decision.

- (5) Therapeutic Control: Therapeutic control is a status that recognizes both the need for security as well as the need for treatment of mental illness. In this status the inmate conditions of confinement as well as control status may be altered using established procedures outlined in this policy and developed and adopted by the facilities Inpatient/Residential mental health services.

Housing assignment for inmates assigned to MCON, where it has been determined by the Psychiatric/Psychological staff that there is a need for residential mental health housing as the inmate can not be treated on an outpatient basis, will be provided by transfer to residential facility designated to provide those services.

- (A) Inmates assigned to MCON who have been diagnosed or is diagnosed with a mental illness; the mental health staff will evaluate and determine if the inmate meets the requirements for therapeutic control. If the inmate meets the requirements, the mental health staff at a facility designated for therapeutic control housing will be contacted. If the therapeutic control staff agrees, the inmate will be transferred as soon as possible. If there is a disagreement as to the appropriateness of a case, the Director of Mental Health Services will make the final decision.
- (B) Referral for therapeutic control may occur during the initial referral for a control status and should be documented on the IS11 comment screens for consideration by the reviewing authorities.
- (C) For those inmates already assigned to MCON and are subsequently diagnosed with a mental illness, referring authorities will make appropriate comments on the IS11 (F15) comment screen documenting the need for mental health treatment and assignment to therapeutic control.
- (D) Upon assignment to a facility designated for therapeutic control housing, the inmate will remain on MCON and all conditions of confinement will be adhered to as provided in policy Chapter C Section .1200, except during periods of therapeutic treatment for the diagnosed mental illness.

(b) Review Procedures

- (1) Each inmate assigned to Maximum Control should be reviewed before the Director's Classification Authority within six months of the initial assignment. The review shall be conducted in the same manner as a routine review of a classification assignment. The DCA may schedule the review date at an earlier date at its discretion.
- (2) Prior to the review, the staff in charge of custody of the inmates assigned to the maximum control will submit a progress report to the DCA indicating the inmate's adjustment to confinement since being placed on maximum control. This report

shall contain the same type of material as that of the original referral described above, together with a recommendation as to what action should be taken.

- (3) If further confinement in maximum control is being considered, the inmate will be confronted at an informal hearing with the reasons tending to indicate that continued confinement is necessary. The inmate will be given the opportunity to attempt to refute any of these reasons and to submit any other relevant information in his or her own behalf. If the Director's Classification Authority/Director's Classification Committee decides that further maximum control is appropriate, the inmate shall be classified as maximum control status. This assignment will be reviewed in accordance with these procedures within six months. If the DCA determines that further placement in maximum control is not necessary and is therefore in disagreement with the referring facility's recommendation, the DCA shall make a recommendation to the Manager of Classification, the Assistant Director of Support Services or other designated approving authority who will confer with the appropriate Region Director or designee before final review and action.
- (4) Inmates removed from Maximum Control status should be assigned to Intensive Control status unless extraordinary factors support assignment of the inmate to the regular population.
- (5) Therapeutic control inmates may be reviewed at any time during the control period. A Therapeutic Control Committee will consist of three (3) members. These members will be the Unit Manager and Psychological Program Manager or their designees and either the Assistant Superintendent for Programs or Assistant Superintendent for Custody/Operations. The Classification Coordinator will also be present during the review hearing to ensure proper policy and procedures are being followed. Only the three (3) committee members will vote on a decision. A majority decision will be required to finalize the action. The case will be presented by the psychologist assigned to the Therapeutic Control housing unit.
- (6) In an effort to return the inmate to the regular population, the facility may in the scope of providing mental health treatment, employ other techniques and strategies that may not be afforded to inmates assigned to MCON housing. The following facilities may submit a petition for temporary suspension of Conditions of Confinement (DC-556) thru the appropriate chain of command for review by the facility head:

NCCIW
Central Prison
Maury Correctional Institution
Pasquotank Correctional Institution
Marion Correctional Institution

If approved, strict security measures should be maintained; however, MCON inmates may be allowed to integrate with ICON inmates for treatment team purposes.

- (7) Inmates removed from therapeutic control (MCON) status shall be assigned to therapeutic control (ICON).

.0403 REFERRAL TO THE DIRECTOR'S CLASSIFICATION AUTHORITY (DCA)

- (a) Normally, the inmates will be referred to the Director's Classification Authority for consideration for confinement in maximum control units only upon the recommendation of the facility classification committee. In rare cases, the facility administrator, or other appropriate authority may refer an inmate to the DCA for consideration for maximum control following the recommendation of the officer in charge of the facility to which the inmate is assigned.
- (b) The referral must be comprehensive. It must contain details of the incident that makes maximum control placement necessary including the time and place of such incident and the names of the sources of information relied upon by the referring officials. Also, it must contain all relevant information concerning the progress of the inmate and his adjustment to confinement up to the time of the infraction or incident. Any psychological or psychiatric examination results, test results, or observations by the unit staff indicating a tendency toward assaultive behavior must also be included. The referral is to be forwarded immediately to the DCA for study and action.
- (c) All referrals and requests for assignment to, continuation of, or release from maximum control will be made through the Control Action (IS11) automated record screen process with sufficient comment to document the control action assignment action as requested.

.0404 TEMPORARY TRANSFER

Generally, inmates considered for maximum control units will be temporarily assigned to an institution pending their hearing before the DCA. If a hearing is held at the receiving institution, the chairperson of the reviewing classification committee will see that the necessary information to complete the record is gathered from both the sending and receiving facilities and that a full record is immediately forwarded through the appropriate chain of command to the appropriate DCA.

.0405 APPROVING AUTHORITY

- (a) The approving authority for assignments to maximum control is the Director of Prisons or designee, e.g., Assistant Director of Support Services, Region Directors or designees, and Manager of Classification or designee. The results of each request will be forwarded to

