



*State of North Carolina  
Department of Public Safety  
Prisons*

Chapter: C  
Section: .0100  
Title: **Offender Custody  
Classification**  
Issue Date: 11/03/21  
Supersedes: 03/10/21  
Expiration: Policy Revision Publication

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## INTERIM POLICY & PROCEDURE

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**The purpose of this interim policy is to make a change to a policy prior to the annual review date. The interim policy will be incorporated into the actual policy during the next annual review. All interim policies shall be updated no more than six months past the annual review date. Revisions are highlighted in turquoise. Please review published policy for reference.**

### NEW LANGUAGE

.0102 (a)

- (1) **Misdemeanor offenders shall be admitted with an assigned Custody designation of Minimum Custody. They shall remain in Minimum Custody for the duration of their term unless a specific event warrants a waiver of this rule.** In general, misdemeanor offenders must be classified as minimum custody and housed at minimum custody facilities. Offenders serving misdemeanor time may only be demoted from minimum custody if (1) they have pending felony charges or active felony detainer or (2) they have a consecutive felony sentence to serve in prison. Offenders serving misdemeanor time may be placed on restrictive housing for control purposes to address behavioral concerns if necessary, but in such cases should be housed at a minimum custody facility with a restrictive housing unit. Misdemeanor offenders should be housed at an all minimum custody facility unless an offender's need for medical or behavioral health treatment requires them to be housed at a facility with higher custody levels. In such an event, the misdemeanor offender shall promptly be returned to an all minimum custody facility as soon as treatment is completed.
  
- (5) Safekeeper and Pre-Sentence Diagnostic admissions will be admitted with custody classification levels of Medium or **Minimum Custody**, depending upon whether the apparent offense leading to commitment is a felony or a misdemeanor, or, where the criminal conviction is not apparent or is unknown, whether the committing venue is Superior Court or District Court. If the criminal conviction is not apparent or is unknown and the committing venue is Superior Court, the classification shall be Medium. If the criminal conviction is not apparent or is unknown and the committing venue is District Court, the classification shall be **Minimum Custody**. Admission, processing, and housing shall be under conditions as otherwise authorized by the Commissioner of Prisons or their designee.

.0104 (a)

Except those committed for Pre-Sentence Diagnostic Evaluation, Safekeepers (Pre-trial Detainees), Confinement in Response to Violation (90C), Three Month Reimprisonment (PR3), Death Row, Felons assigned to **Minimum Custody**, Interstate Corrections Compact (ICC) and Misdemeanants, offenders incarcerated within Prisons should be regularly reviewed by classification authorities.

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.0104 (b)

- (1) *All offenders should have a custody classification level review at least once each year during their confinement unless a classification rule indicates otherwise (5-ACI-5B-06).* Beginning when an offender is within two years of a possible release from prison, reviews shall be completed at least every six months. **If in minimum custody, this every 6-month review rule will not apply and any custody classification generated should be event-driven only.**
- (3) Confinement in Response to Violation (90C) and Three-Month Reimprisonment (PR3) offenders will be assigned to **Minimum Custody** upon admission and will not receive a review of their assigned custody classification level unless it is event-driven.

.0106 (c)

- (2) The manager of classification or their designee must review and finalize all custody classification level reviews wherein a sex offender, security risk group (SRG) validated level three offender or offender with a life sentence under any sentencing law is being recommended for promotion to **minimum custody**.

.0107 (b)

- (1) Felon sex offenders who are within sixty months of a possible release may be promoted to **minimum custody with no outside privileges/assignments and completion of a formal risk assessment by appropriate staff is not required.**
- (2) Felon sex offenders assigned to **minimum custody** must be supervised by agency staff or trained custodial agents when and if participating in any work assignment or program not on agency property **unless the requirements listed below in (3) are met.**
- (3) **Sex offenders will not be eligible to participate in community-based programs until 24 months prior to their release date.** Felon sex offenders must have a formal risk assessment completed and be considered an acceptable risk to the community in order to be **granted outside privileges/assignments.**
- (4) Felon sex offenders who have received a favorable formal risk assessment and are in **minimum custody** may participate in any community-based program that is facilitated without DPS staff or a certified custodial agent supervision.
- (6) Final approval for felon sex offenders to be promoted to **minimum custody** must be given by designated division level staff.
- (7) Final approval for felon sex offenders to be **granted outside privileges/assignments** must be given by appropriate region level staff.
- (9) Sex offenders in **minimum custody who are within 24 months of their release date** may be considered for participation in work release.
- (10) Sex offenders that meet the criteria for promotion to minimum custody and **who are within 24 months of their release date**, may be considered for participation in the community volunteer program.

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**.0109 SEXUALLY VIOLENT PREDATORS**

- (a) Any offenders who have been classified as a sexually violent predator by the courts will be referred to the Manager of Classification for final decision prior to promotion to **minimum custody**.
- (b) A sexually violent predator shall not be assigned to any program or job that takes place **outside the confines of the prison fence perimeter**.

**.0110 MINIMUM CUSTODY PROMOTION FOR NON-SEX OFFENDERS**

- (a) Community Risk Assessments
  - (1) Approving authorities for minimum custody may request a psychological assessment on any offender for which additional psychological information is deemed necessary **except MAPP referrals from the Post-Release Supervision and Parole Commission. The Commission completes an assessment as part of their review.**

**.0108 MUTUAL AGREEMENT PAROLE PROGRAM**

Custody classification **promotions and recommended outside privileges/assignments** for offenders who have an approved mutual agreement parole program (MAPP) agreement shall be completed in accordance with the plan's designated schedule, regardless of the offender having circumstances that otherwise would preclude them from promotion if they were not MAPP participants. Examples of other such circumstances can include but are not limited to sex offender, life sentence, first or second-degree murderer, or previous escape.

**SUMMARY:**

**Note that published policy has errors in numbering. Please follow order of policy for revisions.**

The following sections have been revised to address the minimum custody collapse:

- .0102 (a) (1)
- .0102 (a) (5)
- .0104 (a)
- .0104 (b) (1), (3)
- .0106 (c) (2)
- .0107 (b) (1), (2), (3), (4), (6), (7), (9), (10) (previous (9) consolidated with (3), (10) and (11) renumbered to coincide with these changes)
- .0109 (a)
- .0109 (b) and (c) combined and revised
- .0110 (a) (1)
- .0108

**FILING:**

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This Interim Policy will be filed in the Power DMS system and on the Prisons web page along with the original policy.

**RESPONSIBILITIES:**

The Director of Rehabilitative Services is responsible for ensuring the content of this interim policy and procedure is included in a revised policy and updated through the annual review process.



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Commissioner of Prisons

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November 3, 2021

Date