

**Subpart J—Pretrial Inmates**

SOURCE: 59 FR 60285, Nov. 22, 1994, unless otherwise noted.

**§ 551.100 Purpose and scope.**

In addition to convicted inmates, the Bureau of Prisons houses persons who have not been convicted. Procedures and practices required for the care, custody, and control of such inmates may differ from those established for convicted inmates. Pretrial inmates will be separated, to the extent practicable, from convicted inmates. Except as specified by this rule, policies and standards applicable to persons committed to the custody of the Attorney General or the Bureau of Prisons apply also to pretrial inmates as defined in § 551.101.

**§ 551.101 Definitions.**

(a) *Pretrial inmate.* For purpose of this rule, “pretrial inmate” means a person who is legally detained but for whom the Bureau of Prisons has not received notification of conviction. Thus, “pretrial inmate” ordinarily includes a person awaiting trial, being tried, or awaiting a verdict.

(1) *Civil contempt, deportable aliens, or material witnesses.* For purpose of this rule, an inmate committed for civil contempt, or as a deportable alien, or as a material witness is considered a pretrial inmate.

(2) *Mental evaluation or treatment.* An inmate committed under Title 18 U.S.C. Sections 4241 (b) and (d), 4242(a), or 4243(b) is considered to be a pretrial inmate, whereas commitments under Sections 4243(e), 4244, 4245 or 4246 are treated as convicted inmates.

(3) *Concurrent federal and state sentences.* For purpose of this rule, an inmate in a status described in paragraph (a) introductory text, (a)(1), or (a)(2) of this section and who is at the same time serving a state or federal sentence is not considered a pretrial inmate.

(b) *Convicted inmate.* For purposes of this rule, an individual a court has found guilty of an offense punishable by law.

**§ 551.102 Commitment prior to arraignment.**

On receipt of a U.S. Marshal remand, the Bureau of Prisons shall accept an individual who has not been arraigned for commitment as a pretrial inmate, provided that the institution has appropriate detention facilities available for that individual.

**§ 551.103 Procedure for admission.**

Staff in administrative institutions or institutions with administrative components housing U.S. Marshals’ prisoners shall establish procedures for admitting a pretrial inmate which include, but are not limited to:

- (a) Verification of commitment papers;
- (b) Search of the inmate;
- (c) Photographing and fingerprinting;
- (d) Disposition of clothing and personal possessions;
- (e) Intake screening (including Notice of Separation);
- (f) Providing institution guidelines governing telephone calls (including procedures for making unmonitored calls to an attorney);
- (g) Provisions for personal hygiene, to include:
  - (1) Issue of personal hygiene items;
  - (2) Issue of clean clothing; and
  - (3) Opportunity for shower and hair care;
- (h) Orientation;
- (i) Opportunity for waiver of right not to work;
- (j) Assignment to an appropriate housing unit.

**§ 551.104 Housing.**

To the extent practicable, pretrial inmates will be housed separately from convicted inmates.

**§ 551.105 Custody.**

(a) Staff ordinarily will supervise a pretrial inmate as if classified “In” custody.

(b) Where circumstances warrant, staff may supervise a pretrial inmate according to procedures for other custody levels.

**§ 551.106 Institutional employment.**

Unless a pretrial inmate signs a waiver of his or her right not to work,

the Warden may not require the inmate to work in any assignment other than housekeeping tasks in the inmate's own cell and in the community living area.

**§551.107 Pretrial inmate reviews.**

Staff shall conduct regular reviews of a pretrial inmate's status.

(a) Each pretrial inmate shall be scheduled for an initial review by the unit team within 21 calendar days of the inmate's first arrival at the institution, and subsequent reviews shall be conducted at least every 90 days.

(b) The inmate shall be notified at least 48 hours prior to the inmate's scheduled review.

(c) A pretrial inmate is expected to attend these reviews. If the inmate refuses to appear, staff shall document in the record of the meeting the inmate's refusal and, if known, the reason for refusal.

(d) Inmate reviews are to be documented on the Pretrial Inmate Review Report.

**§551.108 Performance pay.**

The Warden may approve a pretrial inmate for performance pay and special awards.

**§551.109 Community activities.**

(a) The Warden may not grant a furlough to a pretrial inmate (18 U.S.C. §3622).

(b) In an emergency, staff shall facilitate contact with the pretrial inmate's attorney of record, who may seek from the court a decision concerning release from custody or an escorted trip.

(c) Except by order of the court, a pretrial inmate may not be considered for participation in community programs.

**§551.110 Religious programs.**

(a) When consistent with institution security and good order, pretrial inmates may be allowed the opportunity to participate in religious programs with convicted inmates.

(b) Staff shall ensure that pretrial inmates who do not participate in religious programs with convicted inmates have access to other religious programs.

**§551.111 Marriage.**

A pretrial inmate may request permission to marry in accordance with current Bureau of Prisons policy for convicted inmates. Staff shall contact the court, U.S. Attorney, U.S. Marshals Service, and in the case of an alien, the Immigration and Naturalization Service, to advise of the marriage request of the pretrial inmate and to request their comments.

**§551.112 Education.**

(a) A pretrial inmate may participate in correspondence and self-study educational courses. Institutional staff may also arrange for educational assistance to the pretrial inmate through the use of contract personnel or community volunteers.

(b) When consistent with institution security and good order, pretrial inmates may be allowed the opportunity to have access to the institution's educational program.

**§551.113 Counseling.**

(a) When consistent with institution security and good order, pretrial inmates may be allowed the opportunity to receive counseling services with convicted inmates.

(b) Staff shall ensure that pretrial inmates who do not receive counseling services with convicted inmates have access to other counseling services.

**§551.114 Medical, psychiatric and psychological.**

(a) Staff shall provide the pretrial inmate with the same level of basic medical (including dental), psychiatric, and psychological care provided to convicted inmates.

(b) Staff shall advise the court, through the U.S. Marshal, of medication the pretrial inmate receives which may alter the inmate's courtroom behavior.

(c) In event of serious illness or death of a pretrial inmate, staff shall notify the committing court, U.S. Marshal, U.S. Attorney's Office, the inmate's attorney of record, and the designated family member or next of kin.