

October 28, 2013

NOTICE OF PROPOSED RULE

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.800

RULE TITLE: Close Management.

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise Forms DC6-128 and DC6-209; to add a definition of security threat group; to revise what actions constitute a basis for placement in CMI; to update responsible bureaus/sections to correspond to the current organizational structure of the department; and to clarify when written authorization is to be provided for release from close management.

SUMMARY: Rulemaking was initiated to revise Form DC6-128 and Form DC6-209, to add a definition, to identify actions that are the basis for placement in CMI, to update responsible bureaus/sections, and to clarify when written authorization is to be provided for release from close management.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The department has determined that this rule will not have an adverse impact on small business and is not expected to directly or indirectly increase regulatory costs more than \$200,000 within a year of taking effect. A SERC has not been prepared by the department. The department has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs, or if no SERC is required, the information expressly relied upon and described herein: upon review of the proposed changes to the rule and incorporated forms, the department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as set forth in s. 120.541(2)(a), FS. Any person who wishes to provide information regarding the statement of estimated regulatory costs or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 944.09 FS

LAW IMPLEMENTED: 944.09 FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED

RULE IS: Paul Vazquez, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.800 Close Management.

(1) Definitions.

(a)-(r) No change.

(s) Security Threat Group (STG) – refers to formal or informal ongoing inmate/offender groups, gangs, organizations, or associations consisting of three or more members who have:

1. A common name or common identifying signs, colors, or symbols;

2. Members or associates who individually or collectively engage in or have engaged in a pattern of gang activity, criminal activity, or Department rule violations; or

3. Potential to act in concert to pose a threat or potential threat to the public, staff, visitors, other inmates or offenders, or the secure and orderly operations of an institution, probation office, other Department property, or Department activity or function.

(2) Levels of Close Management.

(a) Close Management I (CMI)

1. No change.

2. An inmate assigned to CMI will be ineligible for a work assignment. An inmate may be placed in CMI without having previously been in CMII or III. Any of the following factors constitutes a basis for placement of an inmate in CMI status:

a.-b. No change.

c. Any physical assault or battery on staff which caused ~~causing injury or that could have caused injury;~~

d.-n. No change.

(b)-(c) No change.

(3) Procedures for Placement in Close Management.

(a)-(c) No change.

(d) Prior to docketing an inmate's case for close management review, the classification supervisor will submit a referral to the senior psychologist for evaluation of the inmate utilizing the Close Management Referral Assessment, Form DC6-128. Form DC6-128 is hereby incorporated by reference. Copies of this form are available from the

Forms Control Administrator, 501 S. Calhoun St., Tallahassee, FL 32399,

<http://www.flrules.org/Gateway/reference.asp?No=Ref-01966>. The effective date of the form is ~~6-28-10~~.

(e)-(h) No change.

(4) Transfers From a Non-CM Institution.

(a)-(b) No change.

(c) If placement in CM is approved, the SCO will document its decision in OBIS and notify Population Management ~~the Bureau of Sentence Structure and Transportation~~ for future transfer of the inmate to an appropriate CM facility.

(d) If the CM recommendation is disapproved, the SCO will determine if a transfer for other management reasons should be approved. The SCO will document its decision in OBIS. If a transfer is approved, the SCO will notify Population Management ~~the Bureau of Sentence Structure and Transportation~~ for future transfer of the inmate to an appropriate non-CM facility.

(5) Transfers While Inmate is in CM Status.

(a)-(b) No change.

(c) The recommendation by the ICT to transfer a close management inmate will be decided by the SCO. If approved, the SCO will submit notification to Population Management ~~the Bureau of Sentence Structure and Transportation~~ for transfer of the inmate. The receiving institution shall then place the inmate directly into the approved close management status without completing an additional evaluation.

(d)-(e) No change..

(6)-(15) No change.

(16) Review of Close Management.

(a)-(f) No change.

(g) Before an inmate is released from CM, written authorization must be obtained by the SCO from the regional director if any of the following apply;

1. The inmate has been convicted, regardless of whether adjudication is withheld, of any assault or battery, or any attempted assault or battery that occurred during the inmate's current period of incarceration, that constitutes a felony on a staff member;

2. The inmate has an active detainer as a result of any assault or battery, or any attempted assault or battery, that

occurred during the inmate's current period of incarceration, that constitutes a felony on a staff member; or

3. The inmate ~~is~~ ~~has~~ confined in Florida under the Interstate Corrections Compact and has been convicted, regardless of whether adjudication is withheld, of any assault or battery, or any attempted assault or battery, that occurred during the inmate's current period of incarceration, that constitutes a felony on a staff member in the state from which he transferred.

(17) Close Management Records.

(a)-(d) No change.

(e) A Housing Unit Log, Form DC6-209, shall be maintained in each close management unit. Form DC6-209 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 S. Calhoun St., Tallahassee, FL 32399, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01967>. The effective date of the form is ~~4-08-04~~. Officers shall record all daily unit activities on Form DC6-209, to include any special problems or discrepancies noted. The completed Form DC6-209 shall be forwarded daily to the chief of security for review.

(18) No change.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 2-1-01, Amended 12-16-01, 4-8-04, 3-10-05, 4-9-06, 8-23-07, 4-27-08, 6-28-10, 4-6-11, 7-31-11, 1-4-12, 12-9-12, .

NAME OF PERSON ORIGINATING PROPOSED RULE: James Upchurch, Assistant Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael D. Crews, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 24, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 7, 2013