



ORIGINAL

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

FILED
COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA
AUG 30 2021
JOHN D. HADDEN
CLERK

JULIUS DARIUS JONES,)
)
 Appellant,)
)
 v.)
)
 STATE OF OKLAHOMA,)
)
 Appellee.)

Case No. D-2002-534

REPLY TO APPELLANT'S OBJECTION TO SETTING OF EXECUTION DATE

On August 25, 2021, the Attorney General of Oklahoma performed his non-discretionary duty to "bring to the attention of th[is Court] the fact of the dissolution of a stay of execution and suggest the appropriateness of the setting of a new execution date." 22 O.S.2021, § 1001.1(D). Two days later, Appellant ("Jones") filed an objection ("Objection") based on the speculative possibility that he might be able to revive his Eighth Amendment challenge to the State's execution protocol in federal court.¹ However, this Court's duty to set an execution date is also non-discretionary.

According to 22 O.S.2021, § 1001.1(D),

Should a stay of execution be issued by any state or federal court, a new execution date shall be set by operation of law sixty (60) days after the dissolution of the stay of execution. The new execution date shall be set by the Court of Criminal Appeals without necessity of application by the state, but the Attorney General, on behalf of the state, shall bring to the attention of the

¹ Jones refers to a "partial, final judgment[.]" Objection at 1. There is nothing "partial" about the judgment as to Jones. All of his claim have been dismissed and/or denied. 8/11/2021 Order, *Glossip v. Chandler*, W.D. Okla. Case No. CIV-14-0665-F, Doc. 449 at 43.

Court of Criminal Appeals the fact of the dissolution of a stay of execution and suggest the appropriateness of the setting of a new execution date.

Accordingly, Jones's objection is futile. And, as shown below, his specific arguments are irrelevant and/or false.

A. The Possibility of Continuing Litigation

The district entered summary judgment, which is a final order based on a finding that there are no genuine disputes as to any material fact. 8/11/2021 Order, *Glossip v. Chandler*, W.D. Okla. Case No. CIV-14-0665-F, Doc. 449 at 3, 43.² Yet, Jones claims that the State's notice is premature because the time has not yet run for him to file a motion to alter or amend the final judgment under Federal Rule of Civil Procedure 59(e). Objection at 3.

Critically, Jones ignores that the Western District clearly anticipates that the State will move forward with the executions of the six individuals against whom summary judgment was granted:

As a word to the wise, the parties would be well advised to be prepared, at trial, to present evidence as to the actual track record of midazolam as used in executions over the last few years. That evidence may go far to eliminate speculation as to whether midazolam does not perform as intended when used as specified in the protocol. **(Because, as will be discussed, six of the plaintiffs in the case at bar have declined to proffer an alternative method of execution, there may well be a track record under Chart D of the new Oklahoma protocol by the time this case is called for trial as to the other twenty-six plaintiffs.)**

² A copy of this order was attached to the State's August 25, 2021 Notice Pursuant to 22 O.S.2021, § 1001.1(E) Regarding Execution Date.

8/11/2021 Order, *Glossip v. Chandler*, W.D. Okla. Case No. CIV-14-0665-F, Doc. 449 at 15-16 n.13; *id.* 8/11/2021 Scheduling Order, Doc. 456 at 2 n.2. Jones admits the trial “will likely occur no later than February 2022.” Objection at 3. The federal court clearly contemplated an immediate resumption of executions. Jones’s objection is spurious.

The mere possibility of additional litigation is not an impediment to this Court’s setting of an execution date. Last-minute litigation pursued after an execution date is set is, unfortunately, not uncommon. *See, e.g., Barr v. Lee*, 140 S. Ct. 2590 (2020) (*per curiam*); *Dunn v. Price*, 139 S. Ct. 1312 (2019); *Bucklew v. Precythe*, 139 S. Ct. 1112 (2019). But it is no reason not to set an execution date when all appeals of the conviction and sentence have been exhausted. *See* 22 O.S.2021 § 1001.1(A) (providing that this Court “shall” set an execution date when certain conditions are met, all of which apply to challenges to the conviction and sentence). Even the filing of second or subsequent post-conviction applications or federal habeas corpus petitions challenging the conviction and sentence does not prevent the setting of an execution date. 22 O.S.2021, § 1001.1(B). And this Court may enter a stay of execution “*or issue any order which effectively stays an execution date*” only if the defendant shows “a significant possibility of reversal of the defendant’s conviction, or vacation of the defendant’s sentence, and that irreparable harm will result if no stay is issued.” 22 O.S.2021, § 1001.1(C) (emphasis added). Jones has not even attempted to make that showing.

As set forth more fully in the State's notice, this Court first entered a stay in 2002 so that Jones's conviction and sentence could be reviewed on direct appeal. That review—and many other layers of review—were completed in 2016.

The federal litigation has been ongoing since 2014 when Jones and other plaintiffs sought an injunction. *Warner v. Gross*, No. CIV-14-665-F, 2014 WL 7671680 (W.D. Okla. Dec. 22, 2014). Their request was denied, and that denial was affirmed by the Tenth Circuit and United States Supreme Court. *Id.*, *aff'd by Warner v. Gross*, 776 F.3d 721 (10th Cir. 2015), *aff'd by Glossip v. Gross*, 576 U.S. 863 (2015).

However, the State agreed, in the federal lawsuit, not to request execution dates until 150 days after giving the plaintiffs notice that: 1) investigations of the State's protocol are complete; 2) the results of said investigations; 3) copies of any amendments to the protocol; and 4) notice that the Department of Corrections will be able to comply with the protocol. See 10/4/2016 Notice Pursuant to 22 O.S.2011, § 1001.1 Regarding Execution Date at 3.

On February 13, 2020, the State notified the federal court that it had complied with all of the provisions of the agreement. The State could have, therefore, requested execution dates on July 12, 2020, more than a year ago. However, the State voluntarily waited to set execution dates to give the federal district court an opportunity to decide Jones's method-of-execution challenge on the merits.

A final judgment has now been entered against Jones. There is no impediment—legal or prudential—against setting an execution date. Jones’s invocation of Federal Rule of Civil Procedure 59(e) is a red herring.

Rule 59(e) “gives a district court the chance ‘to rectify its own mistakes in the period immediately following’ its decision.” *Banister v. Davis*, 140 S. Ct. 1698, 1703 (2020) (quoting *White v. New Hampshire Dept. of Employment Security*, 455 U.S. 445, 450 (1982)). The Rule does not give litigants the opportunity to raise new arguments or present new evidence, unless the arguments or evidence were previously unavailable. *Id.* at 1703 n.2. “[C]ourts will not address new arguments or evidence that the moving party could have raised before the decision issues.” *Id.* at 1703.

Jones vaguely asserts that he will present “additional facts relevant to the grounds on which judgment was entered against him and legal grounds that require vacating the judgment.” Objection at 3. But Jones does not allege the federal court made a mistake, nor does he indicate an intention to present *previously unavailable* arguments or evidence. Jones’s invocation of Rule 59(e) in this Court is nothing more than a delay tactic.³ And if Jones does file a Rule 59(e) motion, he will restart the clock on any appeal to the Tenth Circuit. *Banister*, 140 S. Ct. at 1703. No doubt, this Court can expect Jones to argue next that this Court should wait for his potential appeal.

³ The district court’s judgment was entirely sound. Jones failed to provide an alternative method of execution for the one he was challenging. This is absolutely fatal to an Eighth Amendment method-of-execution challenge. *Bucklew v. Precythe*, 139 S. Ct. 1112, 1125 (2019).

In fact, Jones has already indicated his intent to file a motion to stay the district court's judgment pending appeal. Objection at 1-2. However, such motion requires, *inter alia*, a strong showing of a likelihood of success on the merits. *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987). Jones cannot make this showing. *Bucklew*, 139 S. Ct. at 1125.

Further, as shown above, pending litigation on the method of execution is no impediment to this Court's non-discretionary duty to set an execution date. The federal courts are no stranger to this type of litigation, and they are more than capable of deciding whether to stay an execution based on ongoing litigation in their courts. And as described above, when such an injunction was sought by Jones and fellow inmates in 2014 based on their method-of-execution claims, such an injunction was denied, and affirmed by the court of appeals and the Supreme Court. Jones's objection here too must be denied.

B. Jones's Scheduled Commutation Hearing

Jones also claims it is inappropriate to set an execution date because he is scheduled to have a commutation hearing before the Oklahoma Pardon and Parole Board on September 13, 2021. This argument is baffling. The State has requested that Jones's execution be scheduled on October 28, 2021, more than a month after his scheduled commutation hearing. If Jones's sentence is commuted after the hearing, he will not be executed.

And this Court's order setting an execution date will not in any way direct the Pardon and Parole Board to hold a clemency hearing, rather than a

commutation hearing. See Objection at 6 (hinting at a separation-of-powers violation). Nor does Jones explain how having a clemency hearing—the “traditional . . . hearing in a capital case”—might “put[] in jeopardy Mr. Jones’s state and federal due process rights.” Objection at 6. Nowhere in this meritless argument does Jones explain under what authority this Court can decline to set an execution date as required by statute.

C. The Pardon and Parole Board’s Investigator did not Recommend Commutation

Finally, Jones initially claimed that “on May 1, 2021, the Oklahoma Pardon and Parole Board’s investigator recommended that Mr. Jones’s death sentence be commuted to either Life Without Parole or Life, with immediate parole eligibility.” Objection at 2. Jones has since filed a supplemental objection in which he admits to having received information from the Pardon and Parole Board establishing its investigator made no recommendation in Jones’s case.⁴

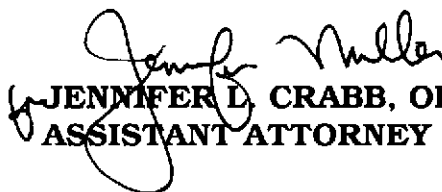
⁴ Jones’s arguments in favor of commutation have no place in this Court. Objection at 6-7. Yet, the State would be remiss if it did not express strong disagreement with the facts supporting those arguments. For example, Clinton Johnson, who worked in the Oklahoma Department of Corrections, provided an affidavit in which he asserts that Jones had “no documented history of violence” when he arrived in prison after his conviction for murdering Paul Howell. Of course, killing Mr. Howell was certainly a documented act of violence. In addition, Mr. Johnson references Jones’s “two pending charges”, but neglects to mention that Jones later pled guilty to one of those pending charges (Oklahoma County Case No. CF-1999-5144), which happened to be an armed carjacking. Mr. Johnson also swears, under penalty of perjury, that Jones had no “documented Security Threat Groups.” This is patently false. The Department of Corrections has twice categorized Mr. Jones as “suspected or confirmed as a member of any disruptive or security threat group which advocates superiority or aggression toward other groups”, specifically the 456 Piru set of the Blood gang. Exhibit A.

D. Conclusion

Jones's dilatory tactics threaten the legitimate interest of the State, and the victim Paul Howell's loved ones, in carrying out his lawfully-imposed punishment. *See Baze v. Rees*, 553 U.S. 35, 61 (2008) (recognizing "the State's legitimate interest in carrying out a sentence of death in a timely manner"). Yet, Jones cannot escape this court's non-discretionary duty to set an execution date. For the foregoing reasons, the State asks this Court to set an execution date for Jones on October 28, 2021.

Respectfully submitted,

**JOHN M. O'CONNOR
ATTORNEY GENERAL OF OKLAHOMA**


**JENNIFER L. CRABB, OBA #20546
ASSISTANT ATTORNEY GENERAL**

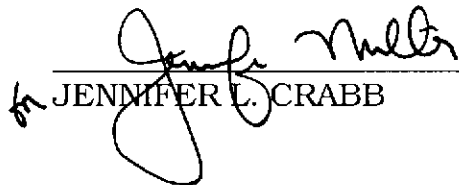
313 N.E. 21st Street
Oklahoma City, Oklahoma 73105
(405) 521-3921 (Voice)
(405) 522-4534 (Fax)

COUNSEL FOR THE STATE

CERTIFICATE OF SERVICE

On this 30th day of August, 2021, a true and correct copy of the foregoing was mailed, via regular first-class United States mail, to:

Dale Baich
Amanda Bass
Michael Lieberman
Arizona Federal Public Defender's Office
850 West Adams Street, Suite 201
Phoenix, AZ 85007


for JENNIFER L. CRABB

- New Arrival within 24 Hours
- 120 Day/Annual Review
- Request Change of Status

Oklahoma Department of Corrections
Cell Assessment Form
(Please print)

FACILITY Oklahoma State Penitentiary DATE July 7, 2014
 NAME Jones, Julius DOC 270147
 Gender M Race B Age 34 Height 5'9 Weight 170
 Violent Crimes (include past history): Murder First Degree, Robbery W/ Firearm(current)

Length of Sentence Death

of Prior DOC Incarcerations 0

Every offender is presupposed to be unrestricted and able to house/cell with any other assigned offender, unless documented evidence exists to determine otherwise. All documentation used to make a determination will be listed on this form.

SECTION I: Security Related Criteria

1. Yes Does the offender have an active or prior violent offense? If yes, list: (especially Murder 1, Robbery and Assault)
Murder First Degree, Robbery W/ Firearm(current)

2. No Does the offender have any separatees at the current facility? Other facilities? How many total? If yes, list:
As of July 7, 2014 - SEE ATTACHED

3. No Has the offender ever been involved in any of the following? (verified by documentation) Note if the incident involved other races.

- No The entire Battery series of misconducts (04-1 through 04-9)? _____
- No Has the offender assaulted another offender?
- No Has the offender been assaulted by another offender?
- No Has the offender been involved in a fight?
- No Has the offender been involved in groups disturbance(s) between offenders?
- No Has the offender been found in possession of a weapon(s)?
- No Has the offender been convicted of 02-2 (under the Influence)?
- No Has the offender been convicted of 08-1 Destruction of State Property?
- No Has the offender been convicted of 09-2 Possession of a weapon?
- No Has the offender been pressured for commissary or sexual favors?
- No Has the offender been involved in homosexual acts or sexual assault?



- No Has the offender Escaped or Attempted Escape?
No Is the offender known to demonstrate influence over other offenders?
No The offender's PREA status per OP-030601 entitled "Oklahoma Prison Rape Elimination Act," Section VII, Items A. and B. Predator / Victim (*circle one*)

Special Notes: _____

- No Does offender have OMS alert as a substantiated sexual assailant?
4. No Has the offender ever requested placement in or been assigned to safekeeping, protective measures/custody, segregation housing or detention during prior or current incarcerations (include city or county jail, or other adult correctional institutions)?
5. Yes Is the offender suspected or confirmed as a member of any disruptive or security threat group(s) which advocates superiority or accession toward other groups?
456 PIRU(BLOOD).
6. No Offender's statement (Indicate date of statement by each entry). Indicate date of incident by each entry. (Attach documentation).
7. No Do misconducts reflect violence towards past cell mates?
8. No Does misconduct pattern reflect violence? Explain pattern.
9. No Does offender have a history of violence towards cell mates?
▪ Move requests require cell assignment agreement form at OSP
▪ Cell Assignment forms to be assessed during adjustment reviews with offender
10. No Number of facility moves in the past year. _____
Any as a result of violence/protection/separates: _____
11. Yes Number of bed moves in the past year. 1
Any as a result of violence/protection/separates: No

SECTION II: Health and/or Mental Health Related Criteria

Refer to "Activity/Housing Summary" Form (DOC 140113C)

> Vulnerability of the offender due to medical or mental conditions and/or treatments?

- *Mental Health Level?* _____
▪ *Mental Health issues?* _____

- *Handicapped?* _____
▪ *Special Needs?* _____

Indicate if the offender's current health summary documents a need for lower bunk assignment.

Type and Date of Recommendation: _____

SECTION III: Housing Restrictions

If there is a check for any response to any of the security related questions outlined above, please indicate if there is sufficient evidence to impose security restrictions relative to the offender's assignment to bunk / celled housing. State clearly the restriction and the risk associated with the offender, including the specific reason(s) for the restriction. List any documentation from which supporting evidence was obtained.

Comments/Special Considerations (security/history, etc.):

Offender is double cell approved, currently has ~~no~~ cell partner.

Section IV: Unrestricted Offenders

If the offender has no restrictions identified in Section III above, they will be given the first available and appropriate cell assignment after consideration has been given to compatibility characteristics such as: physical stature, age, criminal history, violent/passive tendencies, sexual tendencies, offender enemies, and current institutional adjustment and job/program assignments.

Comments:

After assessment of all information on this offender, check the applicable housing/cell assignment status below:

Random Eligible/Unrestricted Restricted

If restricted, explain specific restriction:

E. Thomas
SIGNATURE OF UNIT MANAGER/DESIGNATED STAFF

July 7, 2014
DATE

[Signature] 7.7.14
Reviewer Signature and Date

[Signature] 7/7/14
Reviewer Signature and Date

Reviewer Signature and Date

Section V: Administrative Review (required on all facility receptions)

Administrative Review Deputy Warden/Warden

Section VI: Single Cell Assignment (OSP/MBCC)

If based on this assessment it is determined that the offender needs to be placed in a single cell, the Unit Classification Committee will be convened and a determination on appropriate housing will be made. If no single cells are available, the unit team will forward this assessment to mental health services for completion of Section VII. Upon mental health services review, the recommendation will then be forwarded to the Warden for final approval/disapproval. Justification for the need to be single celled will be documented below (in addition, attach offender profile screening form and any other supporting documentation). Regardless of cell availability, the Warden must approve all permanent single cell assignments.

Single Cell: _____ Yes X No

E. Thomas 7-9-14
Signature of Unit Manager Date
Deborah Smith 7/7/14
Signature of UCC Member Date

A. Thom 7-7-14
Signature of UCC Member Date

Section VII: Double Cell Override Review

If a single cell housing assignment of an offender is recommended, but no single cell is available or provided at the facility, the offender must be overridden to double cell. This override must be reviewed by Qualified Mental Health Services Professional (QMHP) and approved by the Warden. Any offender previously single celled that the UCC determines is now appropriate to double cell, must first be approved by the Warden prior to the offender receiving a cell partner.

Mental Health Review:

_____ Recommend Double Cell
_____ Do Not Recommend Double Cell; offender needs to be single celled.

Justification for Recommendation: _____

Signature of QMHP Date

Warden's Review:

Approved to Double Cell
 Disapproved to Double Cell; offender needs to be single celled

Justification for Approval/Disapproval: _____

Debra Dammell 7-15-14
Signature of Warden Date

If it is determined that offender cannot be double celled and does in fact require a single cell assignment, but none are available, then notification will be made to the appropriate Deputy Director by submission of this form and other applicable documentation.

THIS FORM MUST BE COMPLETED ON EACH RECEPTION BY THE END OF THE NEXT WORKING DAY. (R 4/11)

Oklahoma Department of Corrections
Cell Assessment Form
(Please print)

FACILITY OSP DATE 7-13-15
NAME Julius Jones DOC 270147
Gender m Race B Age 35 (PREA 115.41(d) (2))
Physical Build (115.41 (d) (3): Height 5'9 Weight 170
Violent Crimes (include past history): (PREA 115.41 (d), (5), (e))
Murder 1st Deg, Robbery w/Firearm
Length of Sentence Death Number of Prior DOC Incarcerations 0 (PREA 115.41(d) (4), (e))

Every offender is presupposed to be unrestricted and able to house/cell with any other assigned offender, unless documented evidence exists to determine otherwise. All documentation used to make a determination will be listed on this form.

SECTION I: Security Related Criteria (check all that apply)

1. Does the offender have an active or prior violent offense? If yes, list: (especially Murder I, Robbery and Assault) (PREA 115.41(d) (3))
see above
2. Does the offender have any prior convictions for sex offense? (PREA 115.41(d) (6))
3. Does the offender have any separations at the current facility? Other facilities? How many total? If yes, list: see attached
4. Has the offender ever been involved in any of the following (verified by documentation)? (PREA 115.41(e)) Note if the incident involved other races.
 - (a) Does the offender have the entire Battery series of misconducts (04-1 through 04-9)?
 - (b) Has the offender assaulted/sexually assaulted another offender? (PREA 115.41(e))
 - (c) Has the offender been assaulted/sexually assaulted by another offender?
 - (d) Has the offender been involved in a fight?
 - (e) Has the offender been involved in groups disturbance(s) between offenders?
 - (f) Has the offender been found in possession of a weapon(s)?
 - (g) Has the offender been convicted of a misconduct 02-2 (under the influence)?
 - (h) Has the offender been convicted of a misconduct 08-1 Destruction of state property?
 - (i) Has the offender been convicted of a misconduct 09-2 Possession of a weapon?
5. Has the offender been pressured for commissary or sexual favors?
6. Has the offender been involved in homosexual acts or sexual assault?
7. Has the offender escaped or attempted escape?
8. Is the offender known to demonstrate influence over other offenders?

9. N Does the offender display predatory behavior or the potential for victimization? If so refer to the facility head/designee for appropriate mental health evaluation. (PREA 115.41(d) (8) (9))
10. N Has the offender experienced sexual victimization? (PREA 115.341(d) (9) (8)) Has the offender been identified as a High Risk Sexual Predator (HRSP) or as a victim/potential victim at any time during his/her incarceration? (PREA 115.41(d) (8) (9))
11. N Does the offender have an OMS alert as a substantiated sexual assailant?
12. N Has the offender ever requested placement in or been assigned to safekeeping, protective measures/custody, segregation housing or detention during prior or current incarcerations, to include city or county jail, or other adult correctional institutions?
13. N Has the offender identified themselves as gay, lesbian, bisexual, transgender, or intersex or appears to be gender nonconforming i.e.: Is the offender's gender identity/appearance/dress consistent with the offender's gender? (review OP-030102 Attachment B "Self Report" form for this section (PREA 115.41) (d) (7)) If so, list: _____
14. N Has the offender revealed any perception of vulnerability and/or risk for victimization? If so, explain: 456 P.r.v (Blood)
15. Y Is the offender suspected or confirmed as a member of any disruptive or security threat group(s) which advocates superiority or aggression toward other groups? _____
16. NA Offender's statement (Indicate date of statement by each entry). Indicate date of incident by each entry. (Attach documentation)
17. N Do misconducts reflect violence towards past cell mates? _____
18. N Does misconduct pattern reflect violence? Explain pattern. _____
19. N Does offender have a history of violence towards cell mates? _____
▪ Move requests require cell assignment agreement form at OSP.
▪ Cell Assignment forms to be assessed during adjustment reviews with offender.
20. N Number of facility moves in the past year. _____
Any as a result of violence/protection/separates: _____
21. N Number of bed moves in the past year. _____
Any as a result of violence/protection/separates: _____

SECTION II: Health and/or Mental Health Related Criteria

Refer to "Activity/Housing Summary" Form (EHR)

> Vulnerability of the offender due to medical or mental conditions and/or treatments? (PREA 115.41(d)(1))

- Mental Health Level? (PREA 115.41(d)(1)) _____
- Mental Health issues? _____
- Physical or Developmental Disability/Limitations? (PREA 115.41 (d)(1)) _____
- Special Needs? _____

Indicate if the offender's current health summary documents a need for lower floor/bunk assignment.
Type and Date of Recommendation: _____

SECTION III: Housing Restrictions

If there is a check for any response to any of the security related questions outlined above, indicate if there is sufficient evidence to impose security restrictions relative to the offender's assignment to bunk/ celled housing. State clearly the restriction and the risk associated with the offender, including the specific reason(s) for the restriction. List any documentation from which supporting evidence was obtained.

Comments/Special Considerations (security/history, etc.):

Offender currently has cell partner

SECTION IV: Unrestricted Offenders

If the offender has no restrictions identified in Section III above, they will be given the first available and appropriate cell assignment after consideration has been given to compatibility characteristics, such as: physical stature, age, criminal history, violent/passive tendencies, sexual tendencies, offender enemies, current institutional adjustment and job/program assignments.

Comments:

Upon assessment of all information on this offender, the applicable housing/cell assignment status is indicated below:

Random Eligible/Unrestricted Restricted

If restricted, explain specific restriction:

The offender will be reassessed if the following apply:

If the housing/cell restriction was warranted due to the offenders risk for victimization or abusiveness based on information identified in Section I of this screening for the cell assessment and/or any information received since the intake screening for the cell assessment, a reassessment will occur within 30 days of the offenders arrival and/or upon receipt of additional information. (PREA 115.41 (e))

An offender's risk level will be reassessed when information is received regarding referral requests, incidents of sexual abuse, or receipt of additional information regarding the offender's risk of sexual victimization or abusiveness. (PREA 115.41 (g))

Intake 30-day Reassessment


SIGNATURE OF UNIT MANAGER/DESIGNATED STAFF

DATE


Reviewer Signature and Date

Reviewer Signature and Date

Reviewer Signature and Date

SECTION V: Administrative Review/Special Considerations (required on all facility receptions)

Cell/housing assignments for transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the offender. (PREA 115.42 (d))

The offender's view (Attachment B) regarding his/her safety shall be taken into consideration. (PREA 115.42 (e))

Cell/housing shall take into account that transgender and intersex offenders shall be afforded the opportunity to shower separately from other offenders. (PREA 115.42 (f))

Administrative Review Deputy Warden/Warden/Facility Head

SECTION VI: Single Cell Assignment (OSP/MBCC)

If based on this assessment it is determined that the offender needs to be placed in a single cell, the Unit Classification Committee (UCC) will be convened and a determination of appropriate housing will be made. If no single cells are available, the unit team will forward this assessment to mental health services for completion of Section VII. Upon mental health services review, the recommendation will then be forwarded to the warden for final approval/disapproval. Justification for the need to be single celled will be documented below. In addition, the offender profile screening form and any other supporting documentation will be attached. Regardless of cell availability, the warden must approve all single cell assignments.

Single Cell: _____ Yes No

Signature of Unit Manager 8-3-15 Date *Bull Shyne* 7-13-15 Date
Signature of UCC Member Date

Signature of UCC Member Date

SECTION VII: Double Cell Override Review

If a single cell housing assignment of an offender is recommended, but no single cell is available or provided at the facility, the offender must be overridden to double cell. This override must be reviewed by a Qualified Mental Health Services Professional (QMHP) and approved by the warden. Any offender previously single celled that the UCC determines is now appropriate to double cell, must first be approved by the warden prior to the offender receiving a cell partner.

Mental Health Review:

_____ Recommend Double Cell
_____ Do Not Recommend Double Cell; offender needs to be single celled.

Justification for Recommendation: _____

The offender will be reassessed if the following apply:

If the housing/cell restriction was warranted due to the offenders risk for victimization or abusiveness based on information identified in Section I of this screening for the cell assessment and/or any information received since the intake screening for the cell assessment, a reassessment will occur within 30 days of the offenders arrival and/or upon receipt of additional information. (PREA 115.41 (e))

An offenders risk level will be reassessed when information is received regarding referral requests, incidents of sexual abuse, or receipt of additional information regarding the offenders risk of sexual victimization or abusiveness. (Identify if the cell assessment was completed at intake and/or through reassessment a noted above) (PREA 115.41 (g))

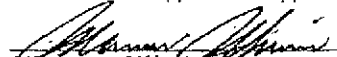
Intake 30-day Reassessment

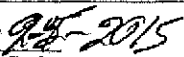
Signature of QMHP Date

Warden's Review:

Approved to Double Cell
 Disapproved to Double Cell; offender needs to be single celled.

Justification for Approval/Disapproval: _____


Signature of Warden


Date

If it is determined that offender cannot be double celled and does in fact require a single cell assignment, but none are available, then notification will be made to the appropriate division manager by submission of this form and other applicable documentation.

THIS FORM MUST BE COMPLETED ON EACH RECEPTION BY THE END OF THE NEXT WORKING DAY (Reception Centers).

THIS FORM MUST BE COMPLETED WITHIN 72 HOURS FOR EACH NEW ARRIVAL AT THE ASSIGNED FACILITY.

(R 11/14)