



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
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CORRECTIONAL FACILITIES

MEMORANDUM

TO: All Superintendents

FROM: Lucien J. Leclaire, Jr., Deputy Commissioner

DATE: August 26, 2003

SUBJ: **Standardized Discretionary Review Procedures - SHU**

In an effort to encourage positive adjustment and establish clear-cut behavioral goals for inmates assigned to Special Housing Units, I am directing the development of a standardized discretionary review procedure for SHU inmates. This procedure does not apply to facilities that presently use the Progressive Inmate Movement System (PIMS) to handle time-cut determinations. At the discretion of the Superintendent, the procedures contained in this memorandum may apply to inmates serving long-term keeplock sentences in general confinement maximum security facilities.

We believe that there are significant advantages to a standardized discretionary review procedure. Some of the anticipated benefits are as follows:

1. Establishes incentives for positive adjustment for inmates in SHU;
2. Provides line staff input into discretionary review decisions;
3. Gives inmates a stake in maintaining positive adjustment and attitude in SHU and provides for a "light at the end of the tunnel" for inmates serving long SHU dispositions;
4. Fewer misbehavior reports and hearings for inmates in SHU;
5. Less conflict between SHU staff and inmates; and,
6. Consistency in discretionary review procedures throughout the State.

The standardized discretionary review procedure will include the development of a committee comprised of a member of the executive staff who shall serve as the chairperson, guidance and counseling staff (SHU counselor), and an SHU security supervisor or designee who will meet on a monthly basis to review the eligibility for discretionary reviews of inmates assigned to special housing. The committee will make recommendations to the Superintendent who will be authorized to accept, modify or reject any such recommendation. Discretionary review decisions are not subject to appeal to the Commissioner or his designee.

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SHU staff will have direct input into all discretionary review decisions. The attached form will be completed by the appropriate staff for presentation to the committee. In addition, the committee will consider the inmate's overall adjustment, including the inmate's overall disciplinary history, and the nature of the offense that led to SHU confinement. The committee will note their recommendations on the form and forward a copy of the form to the Superintendent for final review and determination. A copy of the completed form will be forwarded to the Inmate Records Coordinator to be placed in the inmate's file and a copy placed in the file maintained on each inmate in the Special Housing Unit. Inmates should receive a notice with the results of the committee's review, but not the entire review form.

Only those inmates who have maintained a positive record will be eligible for discretionary review consideration. Inmates who continue to misbehave while assigned to SHU must recognize that such misbehavior will not be tolerated and will result in appropriate disciplinary sanctions and not time-cut consideration.

Inmates will be eligible for discretionary review consideration in the following manner:

Inmates who have an SHU sentence of 90 days or more and who have satisfied their 30-day post adjustment period will be eligible for review after serving one half of their SHU time. If justified, inmates can receive a reduction of up to one half of their remaining time. The amount of the reduction, if any, is at the discretion of the Discretionary Review Committee and subject to the approval of the Superintendent. For example, an inmate serving 18 months in SHU would be eligible for review after serving 9 months. If warranted, the inmate can receive a reduction of up to one half of the remaining nine months and be released after serving 13 1/2 months. If the inmate received a time cut of one third of the remaining time, he would be released after serving 15 months. The following chart provides some additional examples:

<u>SHU Sentence</u>	<u>Time Cut eligible</u>	<u>Release date 1/3 time cut</u>	<u>Release date 1/2 time cut</u>
6 months	3 months	5 months	4 1/2 months
9 months	4 1/2 months	7 1/2 months	6 3/4 months
12 months	6 months	10 months	9 months
24 months	12 months	20 months	18 months

Any time reduction that is awarded pursuant to the standardized discretionary review procedure may be suspended for a specified period. If the inmate misbehaves during such specified period, the suspended time may be invoked, in whole or in part, by a Tier II or Tier III hearing officer in accordance with established disciplinary procedures. No inmate may

receive a reduction of two or more years of confinement time without the prior approval of the Deputy Commissioner for Correctional Facilities or designee.

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Any inmate who has not been granted any time reduction at his initial review or has not been granted the maximum time authorized may request reconsideration by writing to the chairman of the committee. At the discretion of the committee, the inmate may be scheduled for reconsideration at a subsequent meeting of the committee.

This procedure and the Discretionary Review Committee should be in place by October 1, 2003. You should discuss the procedure in detail with SHU staff and notify all SHU inmates of the procedures. Any newly admitted SHU inmates should receive an orientation on the operation of the Discretionary Review Committee within seven days of their admission to special housing. A written summary both in English and Spanish is attached for issuance to all newly admitted SHU inmates.

Additionally, disciplinary office staff should be involved in the development of procedures at your facility to ensure that the committee's decisions are properly entered into the computerized disciplinary system. All decisions of the committee to reduce an inmate's SHU disposition must be entered as a discretionary review decision utilizing Function 35 of the FIDS system.

If you have any comments or questions, please contact Donald Selsky, Director, Special Housing/Inmate Disciplinary Programs.

Lucien J. Leclaire, Jr.
Deputy Commissioner