

<b>ALAMEDA COUNTY SHERIFF'S OFFICE</b>  <b>DETENTION AND CORRECTIONS</b>  <b>POLICY AND PROCEDURE</b>	<b>NUMBER:</b> 16.01	<b>PAGES:</b> 1 of 9
	<b>RELATED ORDERS:</b> ACA 4-ALDF-2A-47, 2A-50, 3A-02, 6A-07, 6C-01, 6C-02, 6C-03, 6C-04, 6C-05, 6C-06, 6C-07, 6C-08, 6C-09, 6C-10, 6C-11, 6C-12, 6C-13, 6C-14, 6C-15, 6C-16, 6C-17, 6C-18 MJS 1080, 1081, 1082, 1083, 1084; P&P 2.17, 5.06, 16.03; P.C. 4019, <b><i>PREA §115.78</i></b>	
	<b>ISSUED DATE:</b> July 1, 1989	
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<b>CHAPTER:</b> Inmate Rights, Rules and Discipline	<b>SUBJECT:</b> Disciplinary Procedure	

I. **PURPOSE:** To set forth an inmate disciplinary procedure and provide fair and impartial hearings and corrective dispositions for inmates found guilty of violating facility rules and regulations pursuant to Minimum Jail Standard Article 7, "Discipline."

II. **POLICY:**

- A. The Sheriff is responsible for the safety, well-being and conduct of all inmates held in detention facilities operated by the Alameda County Sheriff's Office. Discipline and the inmate rules and regulations will be fairly and impartially enforced. Disciplinary decisions are based solely on information obtained in the hearing process, including staff reports, the statements of the inmate charged, and the evidence derived from witnesses and documents.
- B. The written policy and procedures in this directive shall apply to all inmates without regard to sex or place of confinement within the Detention and Corrections Division (D&C). There shall be no diversity of practice other than that required by the uniqueness of a specific housing unit. Inmates will not be disciplined for circumstances beyond their control. The facility Commanding Officer or designee reviews all disciplinary hearings and dispositions to assure conformity with policy and regulations.
- C. The policy of the Alameda County Sheriff's Office is to criminally charge acts which violate state or federal law. Any inmate criminally charged in an incident on jail property may also be disciplined for violating facility rules. There is no double jeopardy pursuant to Minimum Jail Standard 1081, in both disciplining an inmate for violating facility rules and, at the same time, referring the case to the District Attorney for prosecution.
- D. Inmate rules will be established to define inmate conduct and disciplinary penalties. Rules and penalties will be stated simply and affirmatively, and posted conspicuously in housing units or issued to each inmate upon booking. For inmates who are illiterate, unable to read English, and/or who have disabilities, provisions will be made for the jail staff to verbally instruct them or provide them with jail rules and disciplinary procedures and penalties in an understandable form. Inmate rules will be reviewed annually and updated if necessary.
- E. The facility Commanding Officer or designee may administratively remove any inmate from the

general population or program for reasons of personal, mental, or physical health, or under any circumstance in which the safety of the inmates, staff, program, or community is endangered, pending a disciplinary action or a review as required by Minimum Jail Standard, Section 1054, "Administrative Removal – Type IV Facility."

- F. There is a sanctioning schedule for rule violations. The maximum sanction for rule violations is no more than 60 days for all violations arising out of one incident.
- G. *Whether an inmate's mental disabilities or mental illness contributed to his or her behavior shall be considered when determining what type of sanction, if any, should be imposed.***
- H. When an alleged rule violation is reported, an appropriate investigation is begun within 24-hours of the time the violation is reported and is completed without unreasonable delay, unless there are exceptional circumstances for delaying the investigation.
- I. Pre-hearing detentions of inmates who have been administratively removed from general housing or a program, and charged with rule violation(s) are reviewed by the facility Commanding Officer or designee within 72-hours, including weekends and holidays.
- J. Inmates charged with rule violations receive a written statement of the charges, including a description of the incident and specific rules violated. The inmate is given the statement at the same time the disciplinary report is filed with the disciplinary committee, but no less than 24-hours prior to the disciplinary hearing. The hearing may be held within 24-hours with the inmate's written consent.
- K. Inmates charged with rule violations are present at the hearing unless that right is waived in writing or through the inmate's behavior. Inmates may be excluded during testimony. Any inmate absence or exclusion is documented.
- L. A disciplinary hearing may be postponed or held for continuance for a reasonable period and for good cause. Reasons for postponement or continuance must be documented.
- M. Disciplinary hearings are conducted by an impartial deputy or sergeant.
- N. Inmates have the opportunity to make a statement and present documentary evidence at the hearing and can request witnesses on their behalf. Reasons for denying such requests must be documented. An inmate may be assisted by a staff member or a representative. A representative is appointed when it is apparent that an inmate is not capable of collecting and presenting evidence on his/ her own.
- O. If an inmate is found not guilty of an alleged rule violation(s), the disciplinary report is removed from all the inmate's files.
- P. Inmates may appeal decisions of the Inmate Disciplinary Hearing Officer (IDHO) to the facility Commanding Officer or designee; or independent authority. The facility Commanding Officer, his/her designee or independent authority must affirm or reverse the decision of the IDHO within 15 days of the appeal.

### III. DEFINITIONS:

- A. PD-96: INMATE DISCIPLINARY REPORT FORM. The initial form used to document an inmate's violation of institutional rules.
- B. PD-206: INMATE DISCIPLINARY INTERVIEW FORM – The form used to document the first investigation of an inmate's violation of institutional rules.
- C. PD-411: NOTICE OF DISCIPLINARY ACTION PENDING FORM – The form used to document inmate notification of a pending disciplinary hearing for violating institutional rules. This form is used in conjunction with the PD-206 form.
- D. PD-427: INMATE DISCIPLINARY HEARING RECORD – The form used to document an inmate's disciplinary hearing for violating inmate rules.
- E. PD-631: INMATE DISCIPLINARY NOTIFICATION REPORT – The form used by the Classification Disciplinary Deputy to notify the inmate of final disciplinary action imposed when he/she has been found in violation of institutional rules.
- F. INMATE DISCIPLINARY OFFICER (IDO): A sworn staff member, not involved in the charges, and who conducts inmate disciplinary investigations within 24-hours of the disciplinary report being signed by the supervisor. The IDO shall provide the inmate with a copy of the disciplinary report, serve the inmate with a PD-411, conduct an interview with the inmate and recommend an appropriate disciplinary action. Their investigation is documented on a PD-206.
- G. INMATE DISCIPLINARY HEARING OFFICER (IDHO): The IDHO shall be a sergeant or sworn staff member who is not involved in the charges, who initiates impartial hearings on rule violations within 72-hours of the inmate being given written notice of the incident, and recommends appropriate disciplinary action. The hearing is documented on a PD-427.
- H. CLASSIFICATION DISCIPLINARY DEPUTY: A sworn staff member not involved in the charges, who notifies the inmate of final disciplinary findings in writing pursuant to Penal Code Section 4019.5. Notification to the inmate is provided on a PD-631.

### IV. TYPES OF DISCIPLINE AND DISCIPLINARY ACTIONS:

- A. MINOR VIOLATIONS-ORAL ADMONITION: For inmates who violate a rule of a minimum nature and when it would be immediately effective, in the deputy's judgment.
- B. MAJOR VIOLATIONS:
  - 1. Repetitive minor acts of non-conformance or minor violations of institutional rules and major violations of institutional rules or acts of non-conformance shall be reported in writing by the staff member observing the act.
  - 2. The inmate shall be informed of the charges in writing.

3. An investigation of the violation shall be initiated within 24-hours of the disciplinary report being approved by a supervisor.
4. The IDHO shall initiate a hearing as soon as practical, but no sooner than 24-hours or later than 72-hours after an inmate is served with the Inmate Disciplinary Notification Report. The hearing may be held sooner than 24-hours with the inmate's written consent. The hearing may also be postponed or continued for a reasonable time, for good cause, or through a written waiver by the inmate. A continuance or postponement shall be documented. The inmate shall be permitted to appear at the hearing on his/her own behalf. The IDHO will document any delays in the hearing on a PD-427. The IDHO will explain that all disciplinary reports are automatically provided an appeal.
5. After the IDHO has completed the PD-427, all disciplinary investigations will be reviewed by the Watch Commander who will serve as the Appeals Officer. In addition to serving as the Appeals Officer, the Watch Commander will review the disciplinary investigations to assure compliance with policy and regulations.
6. The facility Commanding Officer, or his/her designee, will review all disciplinary reports and make the final determination of disciplinary action.

C. INMATE DISCIPLINARY ACTIONS AND LIMITATIONS:

1. Disciplinary Actions: Punitive actions shall be directly related to the severity of the rule violation. Acceptable forms of discipline consist of, but are not limited to:
  - a. Extra work detail
  - b. Removal from a work assignment without loss of work time credit
  - c. Loss of privileges: Loss of one (1) or more of the following:
    - 1) Purchasing commissary (except personal hygiene items and correspondence materials)
    - 2) Visiting
    - 3) Non-mandatory programs
    - 4) Access to televisions
    - 5) Access to telephones
    - 6) Short term lockdown (less than 24-hours)
    - 7) "Good time" credits earned under P.C. section 4019
    - 8) "Work time" credits earned under P.C. section 4019
    - 9) Disciplinary Isolation (DI):
      - a) Inmates may not be on DI for more than thirty consecutive days. If an inmate is in DI for thirty consecutive days, there shall be a review by the facility Commanding Officer or designee before DI is continued. The review shall include consultation with health care staff. Reviews shall continue at least every fifteen days thereafter until the DI has concluded.
      - b) Disciplinary Isolation cells shall contain a toilet and a sink.

- c) Inmates shall be issued clothing and bedding. Inmates who destroy bedding or clothing may be deprived of these items, in which case modesty garments shall be issued (Policy and Procedure 8.13). The decision to deprive inmates of clothing and bedding shall be reviewed by the facility Commanding Officer or designee during each 24-hour period.
  - d) When an inmate is moved to DI, the moving deputy is responsible for proper disposition of the inmate's personal property.
  - e) An inmate is placed in DI only after a hearing.
- d. Disciplinary Isolation Diet:
- 1. Food will not be withheld as a disciplinary sanction; however, if an inmate uses food or food service equipment in a manner that is hazardous to self, staff, or other inmates, alternative meal service may be provided. Alternative meal service is on an individual basis, based on health or safety considerations only, meets basic nutritional requirements, and occurs with the written concurrence of the facility Commanding Officer or designee and medical staff. The substitution shall not exceed seven days.
  - 2. Food shall only be utilized for major violations of institutional rules pursuant to Minimum Jail Standards Article 7.
  - 3. A disciplinary isolation diet shall comply with Minimum Jail Standards 1247 and shall be served twice in each 24-hour period.
- f. Restitution for damaged or destroyed county property which does not exceed \$250 for any one incident. Restitution shall be made by debiting the inmate's trust account (Policy and Procedure 2.17).
2. Disciplinary Limitations:
- a. The Penal Code and the State Constitution prohibit cruel and unusual punishment.
  - b. In no case shall a safety cell or any restraint device be used for disciplinary purposes.
  - c. An inmate may not be deprived of implements necessary to maintain an acceptable level of personal hygiene as specified in Minimum Jail Standard Article 1265.
  - d. Correspondence privileges shall not be withheld, except when an inmate has violated correspondence regulations, in which case correspondence may be suspended for no longer than 72-hours without review and approval of the facility Commanding Officer.
  - e. Access to attorneys, public officials, courts, or the facility Commanding Officer will not be withheld.
  - f. No delegation of authority to any inmate or group of inmates to exercise the right of punishment over any other inmate or group of inmates shall occur (Penal Code 4019.5).

- g. ***A report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation (Prison Rape Elimination Act, Standard 115.78f).***

V PROCEDURE (Discipline and Due Process):

A. ORAL REPRIMAND: No written record is required.

B. INMATE DISCIPLINARY REPORTING PROCESS: When a rule violation is observed, staff shall prepare a disciplinary report on a PD-96, and forward it to an on-duty supervisor within 24-hours after the alleged rule violation.

1. A disciplinary report will be written even if a criminal report is submitted. Even if a complaint is issued by the District Attorney, further facility action will be taken. In such a case, the IDO will proceed with the disciplinary report in the normal course.
2. The deputy must:
  - a. Obtain a Disciplinary Report Number from ATIMS and notify Central Control/Control Point (CP)-1 of the report number, along with other pertinent information.
  - b. Write and submit the report to an on-duty sergeant prior to going off-duty (or the following day with supervisorial approval).
  - c. Attach an inmate disciplinary report detail to the report.
  - d. Determine if the inmate has an unsentenced, sentenced, or both unsentenced and sentenced Corpus Event Numbers (CEN's). Check the appropriate box(s).
    - 1) If sentenced, fill in the Gross and Work Release dates using the CEN with the furthest release date:

Example:	Gross	Net	Work
	02/11/97	01/03/97	11/25/96

- 2) Complete the violation area with the rule number and a one word description of the violation:

Example: Rule No: 106 Offense: Theft

3. After the supervisor has issued his/her approval, the disciplinary report shall be forwarded to the IDO to initiate an investigation within 24-hours of the time the disciplinary report was signed by the supervisor. The investigation may be delayed for good cause and with documentation.
4. After the IDO's investigation has been completed and documented on a PD-206, it shall be approved by a sergeant.

5. An inmate may be isolated in a single cell, pending an investigation or disciplinary hearing in accordance with the procedures for placement in Administrative Isolation. This segregation will not be punitive and will be used only when necessary to ensure the inmate's safety or facility security. An informational memorandum and relevant reports will be provided explaining the isolation. This pre-hearing status shall be reviewed by the facility Commanding Officer or designee within 24-hours, including weekends and holidays.

C. NOTICE OF DISCIPLINARY ACTION PENDING (PD-411): The IDO will give the inmate a completed Notice of Disciplinary Action within 24-hours of the sergeant approving the report, but not less than 24-hours before the hearing, including weekends and holidays which specifies:

1. The right to a hearing: All inmates are entitled to a hearing.
2. Inmates do not have the right to be represented by a lawyer (WOLFF V. MCDONNELL 418 U.S. 539, Ohio, Op. 2d 336 [1974]); however, if an inmate is illiterate or the complexity of the issue makes adequate self-representation unlikely, he/she has the right to counsel substitute. Counsel substitute may be an inmate, deputy, or employee where the inmate is confined. Provisions will be made by the IDHO for consultation with counsel substitute prior to the hearing.
3. The hearing may be held within 24-hours of the inmate being provided written notification of the alleged violations (PC-411) only with the inmate's written consent.
4. Inmates may have up to three witnesses. Witnesses and the reporting deputy cannot be compelled to attend the hearing at the inmate's request; however, the IDHO may require the reporting deputy to attend. The IDHO may exclude witnesses whose testimony is not relevant.
5. The inmate charged with a rule violation shall be allowed to make a statement.
6. Inmates may be excluded during the testimony of any inmate whose testimony must be given in confidence. Such exclusion shall be documented.
7. If the inmate waives a hearing, the discipline report and Notice of Disciplinary Action is sent to the Watch Commander for review within 24-hours of the inmate being informed of the charges in writing.
8. If the inmate does not waive the hearing, the report will be forwarded to the sergeant for review and assignment to an IDHO.
9. A refusal to answer the questions or refusal to sign on the Notice of Disciplinary Action Pending form shall not be interpreted as a waiver of the right to a disciplinary hearing or as a waiver of the 24-hour waiting period between notification and the commencement of the hearing.

D. INMATE HEARINGS: The IDHO shall initiate a hearing as soon as practical, but no sooner than 24-hours or later than 72-hours after an inmate is served with the PD-631, Inmate Disciplinary Notification Report. Hearings must be convened no later than 7 days from the date

of the rule violation. The IDHO's findings will be reported on a PD-427. The synopsis of the hearing will include a complete and accurate summary of evidence presented by all involved parties and the reasons for the decision. The hearing may be delayed or continued for a reasonable time through a written waiver by the inmate or for good cause. It is the responsibility of the IDHO to record the cause for any delay or continuance on the PD-427.

1. The IDHO may establish reasonable rules to ensure orderly conduct and limit redundant testimony.
2. Inmates charged with rule violations shall be present at the hearing, unless they waive that right in writing or through behavior. Absence or exclusion shall be documented.
3. Inmate rules of conduct apply. Misconduct will be dealt with as a new rule violation.
4. If an inmate or counsel substitute disrupts a hearing or contributes to misconduct, the hearing may be ended, counsel removed, and the hearing continued to a new date. A continuance shall be documented.
5. A staff member or agency representative can assist inmates at disciplinary hearings. A representative is appointed when an inmate is not capable of collecting and presenting evidence on his or her own behalf.
6. If an inmate or counsel substitute does not or cannot appear on the date set, the IDHO may postpone the hearing. If the inmate's release date is such that the discipline would suffer from the delay, the IDHO may order immediate proceedings and appoint another counsel substitute.
7. The inmate may make a statement and present documentary evidence at the hearing, and may request witnesses on their behalf. Reasons for denying such requests must be documented.
8. The IDHO may, with cause and documentation, order delay or suspension of discipline until a conclusion is reached.
9. The IDHO may use stenographic or electronic recording.
10. If an inmate refuses to comply with procedural due process or participate in the disciplinary hearing process, the IDHO must document the refusal and may make a finding with available information from the point when the inmate refused to continue.
11. A Watch Commander will serve as the Appeal Officer after the IDHO has completed their report or at the completion of the IDO's investigation when the inmate waived their right to a hearing. The Watch Commander will review the report to assure conformity with policy and regulation.
12. The facility Commanding Officer or designee will conduct the final review of all disciplinary reports based on documentation obtained during the disciplinary process.
13. Classification's Disciplinary Deputy will notify the inmate of the decision on a PD-631.

E. DISCIPLINARY APPEAL PROCESS:

1. All disciplinary reports will be automatically provided an appeal to the Watch Commander. The Watch Commander will review the disciplinary report process to ensure due process was followed and a proper sentence was given for the violations committed. The Watch Commander will note their recommendation on the front of the PD-96 and forward the entire investigation to the facility Commanding Officer who will make the final determination on the disposition of the disciplinary report.
2. The Classification Unit will notify the inmate of the Commanding Officer's final determination of any discipline that will be imposed.

F. RESTITUTION FOR DAMAGED OR DESTROYED COUNTY PROPERTY:

1. Restitution shall be made directly from the inmate trust account when the reimbursement totals \$250 or less for any one incident.
2. Accounting staff shall debit the inmate's account and transfer the money to the appropriate Sheriff's Office revenue account.
3. Restitution which exceeds \$250 shall be pursued through criminal process or civil small claims court.

G. DISCIPLINARY RECORDS AND FILES:

1. When the disciplinary process is completed, copies of the report will go to the Records Deputy (for the inmate's jail jacket when time adjustment is indicated) and to the inmate's classification file. The original disciplinary report and attachments will be filed in numerical order in the disciplinary file in the Classification Office.
2. The disciplinary records and files shall be maintained for at least six months.
3. If an inmate is found not guilty, only the original report will be filed.
  - a. The original report will be removed from the normal filing system, maintained separately and shall not be used for classification or disciplinary purposes.
  - b. When multiple incidents/charges are listed on one report, charges not sustained may be blacked out on the copies only.

H. Any report unduly delayed may be considered null and void by the facility Commanding Officer and in that case, no discipline will be invoked.