



GENERAL ORDER

Loudoun County Sheriff's Office

Chapter: Correctional Services	Section: 505.8
Subject: Classification and Inmate Records	Topic: Code of Inmate Offenses and Discipline
Accreditation: 6VAC15-40-310, 6VAC15-40-820, 6VAC15-40-830, 6VAC15-40-833, 6VAC15-40-835, PREA.115.78	
Enacted: 04/16/2008	Revised: 08/20/2013
Last Review:	Reaffirmed:
	Review:

I. PURPOSE

The purpose of this General Order is to provide directives for inmate conduct and to establish procedures for the reporting and disposition of disciplinary infractions by inmates, in compliance with the Department of Corrections Standards. Disciplinary proceedings are intended to ensure a swift hearing by an impartial person to preclude the arbitrary imposition of punishment. Informal means of resolving minor inmate misbehavior should be used whenever possible.

II. POLICY

It shall be the policy of the Corrections/Court Services Division to hold inmates accountable for their behavior. Any inmate who fails to conform to the rules and regulations of the Adult Detention Center shall be subject to disciplinary action. The disciplinary process applies to all inmates, including those participating in any programs, in court holding areas or in transit while in our custody and control.

- A. Administration of discipline within the Adult Detention Center shall be in accordance with the Department of Corrections Standards.
- B. Inmates charged with in-house offenses shall be entitled to fair and impartial hearings. All hearings shall be in accordance with the notions of due process.
- C. With the exception of an informal resolution, the accused inmate shall have the opportunity to appeal any finding of guilt to the Assistant Division Commander of Confinement.
- D. The practice of harassment, personal abuse, corporal punishment or other actions that may result in personal injury to inmates or damage to their property shall not be tolerated.

The minimum procedural requirements whenever an inmate is punished, such as reprimand or loss of privileges, include:

1. The accused inmate shall have an opportunity to explain or deny the charge; and

The inmate shall have the opportunity to appeal any finding of guilty to the administrator or designee.

III. DEFINITIONS:

Disciplinary Action Report: A formal notice to an inmate charging him/her with committing a specific act prohibited by the Code of Inmate Offenses and informing the inmate that a disciplinary hearing has been scheduled.

Direct Order – Any directive issued verbally or in written form, from a staff member to an inmate.

Hearing Officer: An officer approved by the Division Commander to hear the merits of the charge(s) and return an impartial decision. In the absence of the designated Hearing Officer, the Division Commander may substitute any supervisor not involved in the alleged offense.

Major Offense: The most serious offense prohibited by the Code of Inmate Offenses (listed in Attachment A), that may subject an inmate to any of the following:

1. Verbal or written reprimand and notation in the inmate record.
2. Loss of privileges including the following for up to fifteen (15) calendar days:
 - a. Canteen
 - b. Programs
 - c. Visitation (except with attorney)
 - e. Telephone Use (except with attorney)
3. Loss of outdoor recreation privilege for up to fifteen (15) calendar days
4. Classification Change
5. Isolation for a period of one (1) to fifteen (15) calendar days for each offense
6. Loss or partial loss of accumulated good conduct time

Minor Offense: Less severe offenses prohibited by the Code of Inmate Offenses that may subject an inmate to any of the following:

1. Verbal or written reprimand and notation in the inmate record.
2. Loss of privileges including the following for up to five (5) calendar days:

- a. Canteen
- b. Programs
- c. Visitation (except with attorney)
- d. Telephone Use (except with attorney)
- 3. Loss of outdoor recreation privilege for up to five (5) calendar days
- 4. Classification Change
- 5. Isolation for a period of one (1) to five (5) calendar days for each offense

Informal Resolution Sanctions

- 1. Verbal reprimand.
- 2. Loss of privileges including the following for up to twelve (12) hours:
 - a. Canteen
 - b. Library
 - c. Programs
 - d. Visiting (except professional visits)
 - e. Telephone Use (except with attorney)
 - f. Recreation
- 3. Lockdown in one's cell for no more than twelve (12) hours.
- 4. Assignment of minor work detail (maximum-security inmates may only be assigned work detail within their housing unit)

III. PROCEDURE

A. Types of Offenses and Penalties

- 1. Any inmate who commits a criminal act in violation of the laws of the Commonwealth of Virginia may be charged and referred to the proper authority

for action. In addition, an individual may also be referred for appropriate disciplinary action under the provisions of this General Order.

2. Offenses prohibited by the Code of Inmate Offenses shall be categorized according to their relative order of severity.

B. Administration of Discipline

1. Report of Offenses

Whenever a deputy observes or receives reliable information that an inmate is committing or has committed an offense specified in the Code of Inmate Offenses, that deputy shall initiate action to charge the inmate by conducting an investigation and completing an In-House Incident Report. This report shall include:

- a. Name(s) of inmate(s) involved, and his/her Adult Detention Center Permanent identification number.
- b. Date and time of the alleged offense(s)
- c. Number and title of the alleged offense(s) as stated in the Code of Inmate Offenses
- d. A detailed summary of facts and information pertaining to the alleged offense, including names of witnesses and action taken by the deputy. Statements of witnesses and evidence obtained shall be submitted with the report.
 - 1) Whenever possible, reports of this nature shall be typed. Otherwise, they shall be printed legibly.
 - 2) When preparing the offense report, care shall be taken to ensure that the incident charged is supported by factual information in the narrative section of the report. The report shall include the who, what, when, where, why and how of the offense. This report shall also include any and all actions taken by staff.
- e. Upon completion, the report shall be forwarded to the deputy's supervisor for review.

2. Action by Supervisor

- a. Within two working days after receiving the In-House Incident Report, the supervisor shall review the report for accuracy and completeness. Reports

that lack clarity or are incomplete shall be returned to the reporting deputy for revision.

- 1) When information in the narrative summary of a report does not support the charge shown but does support a different charge, the supervisor shall discuss this matter with the reporting deputy and make the necessary corrections.
 - 2) Statements from witnesses and any physical evidence accompanying the report shall be examined for relevance. The deputy initiating the disciplinary action shall be responsible for maintaining control of all evidence and producing it for the hearing process.
 - 3) The supervisor shall conduct a brief review of the case material to determine whether disciplinary action is warranted.
- b. In cases where disciplinary action appears warranted, the supervisor shall approve a Disciplinary Action Report.
- 1) This report shall serve as a formal notice to the inmate that he/she is being accused of committing a specific offense and that he/she shall receive either a formal or informal hearing.
 - 2) A copy of the In-House Incident Report shall be attached unless, in the Squad Supervisor's opinion, the welfare of other inmates might be jeopardized. In such cases, a brief summary of the justification for action may be drafted and attached to the Disciplinary Action Report.
 - 3) A duplicate Disciplinary Action Report shall be prepared for delivery to the concerned inmate within two working days of the squad supervisor's investigation.
 - 4) The deputy initiating the charge(s) may prepare the Disciplinary Action Report at the direction of the squad supervisor. The squad supervisor shall initial the form to indicate approval.

1. Pre-Hearing Detention

- a. Inmates accused of either major or minor offenses shall be transferred to pre-disciplinary segregation pending the outcome of disciplinary proceedings if they represent a threat to themselves, others, or the security of the Loudoun County Adult Detention Center. This determination shall rest with the squad supervisor and shall require justification.
- b. Pre-disciplinary segregation must be justified on a case-by-case basis.

- c. Pre-disciplinary segregation is not punishment. Segregated inmates shall retain authorized items of personal property normally found in General Population.
 - d. Any placement in pre-disciplinary segregation shall be governed by General Order 504.3, Administrative Segregation.
2. Notifying Inmates of Charges
- a. After the Disciplinary Action Report is prepared, the supervisor or his/her designee shall deliver it to the accused inmate(s). At this time, the inmate shall be:
 - 1) Informed of the nature of the charge(s).
 - 2) Advised of his/her rights.
 - b. Minor violations may be resolved informally if the inmate waives his/her right to a formal hearing and accepts sanctions imposed by the supervisor. The inmate also waives his/her right to appeal the decision if handled through this process. The inmate, the charging deputy and the supervisor must mutually agree upon this process.
 - c. Offenses may be referred to a Disciplinary Hearing Officer for a formal hearing. This is mandatory when there has been a major violation.
 - d. After the Disciplinary Action Report is delivered and the above steps are accomplished, the staff member delivering the Disciplinary Action Report shall sign the report in the appropriate space.
3. Inmate Rights
- a. The following rights shall be afforded to inmates charged with major or minor offenses, whose cases will be disposed of at a formal hearing by the Disciplinary Hearing Officer:
 - 1) To be present at the hearing as determined by the Hearing Officer, unless the inmate waives this right or unless he/she exhibits disruptive behavior.
 - 2) To have a staff member or an inmate assist with their defense of major offenses only. This assistance shall be only for inmates who are not fully competent to prepare their defense.
 - a) The determination of whether an inmate is in need of assistance shall be based upon a review of education level, mental or emotional

issues, physical limitations or need for language interpretation. The Hearing Officer shall make this determination.

- b) If the Hearing Officer determines that the inmate has justification, whatever assistance is necessary or indicated shall be provided.
- 3) To have staff or inmate witnesses voluntarily testify on their behalf.
- 4) To cross-examine witnesses at the hearing.
- 5) To be allowed twenty-four (24) hours to prepare for the hearing. The hearing may be conducted earlier than this if the inmate waives this waiting period in writing.
- 6) To waive all of the aforementioned rights. Should the inmate choose to waive these rights in writing, such waiver shall be executed in writing and forwarded to the Classification Section.

C. Procedure for the Conduct of Hearings

1. Pre-hearing Administrative Requirements

- a. During the delivery of the Disciplinary Action Report to an inmate and advising the inmate of his/her rights:
 - 1) Once the on-duty supervisor approves the report and charges, the serving deputy shall sign the Disciplinary Action Report in the spaces indicated.
 - 2) The serving deputy shall complete the witness section of the Disciplinary Action Report indicating he/she has notified the inmate of his/her rights.
 - 3) A list shall be made of all witnesses that either the deputy or the inmate intends to call.
 - 4) The duplicate copy of the Disciplinary Action Report and a copy of the In-House Incident Report (or summary) shall be given to the inmate.
- b. The original copy of the Disciplinary Action Report shall be attached to the In-House Incident Report (or summary) and forwarded to the Classification Section.
- c. After review, the Classification and Records Section shall:
 - 1) Prepare the necessary documents for the formal hearing.

- 2) Attach the Disciplinary Action Report and In-House Incident Report (or summary) to the necessary documents.
 - 3) Gather prior in-house conviction history information.
 - 4) Place the completed packet into the pending hearing in-box.
- d. The charging deputy shall be responsible for assigning the next available hearing date for the case and for notifying any staff witnesses he/she plans to call at the hearing. Hearings are normally scheduled every Wednesday.
- e. The Classification and Records Section shall:
- 1) Notify the Disciplinary Hearing Officer of the date and time of the hearing.
 - 2) Provide the inmate record, along with documentation, to the Hearing Officer prior to the hearing.
- f. To ensure fair and impartial hearings, the following staff members shall not be assigned as Hearing Officers:
- 1) Any staff member involved in reporting an offense.
 - 2) Any staff member involved in the preparation or delivery of charges.
 - 3) Any staff member who has first-hand knowledge of an offense.
 - 4) Any staff member who had decision-making authority in the incident or action.
- g. Whenever formal hearings cannot be held within the prescribed time limits, the Classification Section shall prepare a continuation notice for delivery to the inmate. The continuation notice shall indicate the date for the hearing and the reason for the rescheduling.
2. Conduct of Formal Hearings
- a. Disciplinary hearings shall be recorded digitally and stored by electronic means.
 - b. The inmate shall be called before the Hearing Officer.
 - c. The Hearing Officer shall inform the inmate of the charge(s) against him/her.
 - d. The inmate shall enter a plea of "guilty" or "not guilty" to the charge(s).

- e. When an inmate pleads "not guilty" to the charge(s):
- 1) The reporting deputy shall be summoned first to present testimony. Once the deputy's testimony is given, the inmate shall be afforded an opportunity to question the deputy.
 - 2) Any other witnesses on behalf of the Adult Detention Center shall thereafter be called and shall testify. When each witness concludes his/her testimony, the inmate shall be afforded an opportunity to question the witness.
 - 3) The inmate shall be instructed to precede with his/her defense.
 - a) Witnesses, witness statements and documentary evidence may be introduced on behalf of the inmate. However, witnesses requested by an inmate or reporting employee and documentary evidence may be excluded from the hearing by the Hearing Officer if he/she determines such evidence to be irrelevant to the case.
 - b) Inmates shall question his/her witnesses first. The Hearing Officer may then question the witness during the course of the hearing.
 - c) If the Hearing Officer, to preserve safety and security, determines that any witness testimony must be given in confidence, the accused inmate may be excluded from that testimony. If this is done, a note shall be made in the case file specifying the time the inmate was excused and the time the inmate returned, as well as the justification for the exclusion.
 - d) The inmate shall be given an opportunity to address the Hearing Officer in order to make a statement or present any defense.
 - 4) Upon conclusion of the presentation of matters pertaining to the inmate's defense, the Hearing Officer shall proceed to determine guilt or innocence. The reporting deputy is excused by the hearing officer and the inmate shall be removed from the hearing so that the Hearing Officer can review the materials and testimony presented and deliberate.
 - a) If determined "not guilty," the inmate shall be excused and the disciplinary report and all other papers pertaining to the charge shall be placed in the inmate record indicating the final outcome.
 - b) If determined "guilty," the Hearing Officer shall decide upon an appropriate penalty.

- c) After reaching a decision regarding the guilt or innocence of the inmate and any penalty to be imposed, the Hearing Officer shall:
 - (1) Have the inmate brought back before him or her and advise the inmate of the findings.
 - (2) Inform the inmate that he/she may appeal the decision to the Assistant Division Commander of Confinement and elicit the inmate's intention in this regard. If the inmate elects to appeal the Hearing Officer's decision, he/she shall be advised how to proceed.
- d) Indicate intent to appeal. The Hearing Officer shall note this fact on the Disciplinary Findings Sheet and In-House Incident Report.
- e) Whenever an inmate appeals the Hearing Officer's decision, the imposition of penalties shall be held in abeyance pending final action on the appeal.
- f. The accepted level of proof for decisions of guilt in inmate disciplinary hearings is "reasonable belief" that the violation occurred and that the inmate committed the violation.
- g. Appeals of Decision
 - 1) Inmates shall be instructed that if they appeal, their appeal must:
 - a) Be submitted in writing within five (5) calendar days from the date of the hearing. Appeals received later than five (5) calendar days after a hearing shall be rejected.
 - b) Be addressed to the Assistant Division Commander of Confinement.
 - c) Outline specific reasons why the conviction or penalty should be reversed or reduced.
 - d) Be filed with the Classification Supervisor to be processed and transferred to the Assistant Division Commander of Confinement.
 - 2) In case of appeal, the Assistant Division Commander of Confinement shall do the following:
 - a) Review the case and, within seven (7) working days from the date of receipt, notify the inmate in writing of his/her decision regarding the appeal.

- b) Choose one of the following courses of action:
 - (1) Deny the appeal.
 - (2) Uphold the appeal and modify, reduce or suspend the imposed penalty.
 - (3) Order a rehearing should there be indication of procedural error.
 - c) A copy of the Assistant Division Commander's response to the inmate shall be placed in the inmate record.
 - d) The Assistant Division Commander's decision regarding an inmate's appeal shall be final. Once notified of this decision, further appeal by an inmate will not be accepted.
3. Post-Hearing Administrative Requirement: Formal Hearing
- a. Upon conclusion of formal hearings, the Hearing Officer shall:
 - 1) Ensure that the Disciplinary Findings Sheet and Disciplinary Action Report are properly completed and signed. These forms are a synopsis of the information surrounding the hearing to be used for recording and reporting purposes. These records shall include the following information:
 - a) The name of the inmate subject to disciplinary hearings.
 - b) The date(s) of the offense.
 - c) The nature of the offense.
 - d) The type of hearing held.
 - e) The verdict.
 - f) The evidence relied upon to reach the conclusion.
 - g) The penalties imposed.
 - h) The reasons for the disciplinary action.
 - i) The names of the person(s) who conducted the hearing(s).
 - 2) Notify the Classification Section of the outcome of the case.

4. After review, all documentation pertaining to the hearing shall be delivered to the Classification Section. All documentation pertaining to the hearings shall remain in the inmate record.

DOC STANDARD #

6VAC15-40-310: Commissary Services

The facility shall make available to inmates commissary services where they may purchase from an approved list of items at a minimum of one time per week. Written policy and procedure shall describe the circumstances and duration under which inmates may be restricted from this privilege.

Compliance Documentation:

- Review commissary list (at a minimum, the list should include hygiene items and food items)
- Review weekly commissary receipts
- Interview staff/inmates

(The written policy and procedure relates solely to disciplinary action)

The authority for establishing stores in local correctional facilities operated

PREA STANDARD #

§ 115.78 Disciplinary sanctions for inmates.

- (a) Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.
- (b) Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.
- (c) The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
- (d) If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits.
- (e) The agency may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
- (f) For the purpose of disciplinary action, 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.

- (g) An agency may, in its discretion, prohibit all sexual activity between inmates and may discipline inmates for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

This General Order becomes effective August 20, 2013, and rescinds all previous rules and regulations pertaining to the subject.