

**FAIRFAX COUNTY SHERIFF'S OFFICE
STANDARD OPERATING PROCEDURE**

**SOP NUMBER: 613
SUBJECT: ADMINISTRATION OF DISCIPLINE**

I. PURPOSE

To establish guidelines for the reporting of disciplinary infractions; the conduct of disciplinary hearings; the processing of appeals from inmates convicted of offenses.

II. POLICY

It is the policy of the Fairfax County Sheriff's Office that:

- A. Administration of discipline within the Fairfax County Adult Detention Center and Alternative Incarceration Branch shall be in consonance with Constitutional guarantees afforded prisoners in jails, and applicable rulings of Federal and State Courts.
- B. No disciplinary proceedings shall be initiated or conducted without strict adherence to the procedures of due process.
- C. Inmates charged with offenses are entitled to fair and impartial hearings. Disciplinary or adjustment hearings are conducted by a Hearing Officer who is an impartial person not involved with the case.
- D. The practice of harassment, personal abuse, corporal punishment, or other action which may result in the personal injury to inmates or damage to their property, will not be tolerated.

III. PROCEDURE

- A. Report of Offenses.
 - 1. Whenever an employee observes or receives reliable information that an inmate is committing or has committed an offense specified in the Code of Inmate Offenses, that employee will initiate action to charge the inmate by completing an incident report (ADC Form 108, Attachment 5).
 - 2. This report will include:
 - a. Name(s) of inmate(s) involved, and ADC Number(s).
 - b. Date and time of alleged offense(s).
 - c. Location where the alleged offense(s) occurred or was discovered.
 - d. Number and title of the alleged offense(s) as stated in the Code of Inmate Offenses.
 - e. A detailed summary of facts and information pertaining to the alleged offense, including names of witnesses, and action taken by the employee. Statements of witnesses and evidence obtained should be submitted with the report. When reporting an offense, care must be exercised to ensure that the offense charged is supported by factual information in the narrative section of the report.
 - f. Printed name, signature, and EIN (where applicable) of the reporting employee.
 - 3. Upon completion of the report, it will be forwarded to the employee's supervisor

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for review.

B. Action by Supervisor.

1. Within 24 hours after receipt of a report which may form the basis of a disciplinary proceeding the supervisor will (unless there are exceptional circumstances for delaying the investigation):
 - a. Review the report for accuracy and completeness. Reports which lack clarity or are incomplete will be returned for revision.
 - 1) When information in the narrative summary of a report does not support the charge shown, but does support another charge, the supervisor should discuss this matter with the reporting employee and make the necessary corrections and /or amend the charges.
 - 2) The supervisor should conduct a brief investigation to determine whether disciplinary action is warranted.
 - b. Statements from witnesses and physical evidence (if any) accompanying the report should be examined for relevance.
2. In cases where disciplinary action appears warranted, the supervisor will prepare a Charge Sheet, which shall serve as formal notice to an inmate of a disciplinary hearing. A copy of the report will be attached. Names of witnesses may be blacked out/deleted from the report to ensure their safety.
 - a. Reports alleging MAJOR offenses. A Charge Sheet will be prepared in duplicate for delivery to the inmate(s) concerned. All MAJOR offenses will be referred to a Hearing Officer for disposition.
 - b. Reports alleging MINOR offenses.
 - 1) Depending upon the supervisor's evaluation of the seriousness of a MINOR offense, s/he may decide to:
 - a) Dispose of the case through an informal hearing.
 - b) Refer the case to a Hearing Officer.
 - 2) Whether MINOR offenses are disposed of through informal hearings conducted by a supervisor, or referred for an Adjustment Hearing by a Hearing Officer, a Charge Sheet will be prepared in duplicate for delivery to the inmate, along with a copy of the report. Names of witnesses may be blacked out/deleted from the report to ensure their safety.
 - a) Reports alleging both MAJOR and MINOR offenses. Charge Sheets will be prepared in duplicate for delivery to the inmate concerned within 24 hours of completion of the supervisor's investigation. Cases of this nature will be disposed of through an Adjustment Hearing by the Hearing Officer.

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C. Pre-hearing Detention

1. Inmates who have been accused of MAJOR or MINOR offenses may be transferred to secure housing pending outcome of disciplinary proceedings when they present a threat to themselves, others, or the security of the ADC/AIB. The assignment to pre-hearing detention will be reviewed at the next meeting of the Institutional Classification Committee (ICC).
2. Pre-Hearing detention is not punishment. Inmates so segregated will be permitted to retain authorized items of personal property. Except for visiting and phone calls, inmates undergoing pre-hearing detention may be restricted from program participation until final disposition of their case should the alleged offense present a safety or security risk to the institution, staff, and/or inmates. Inmates transferred to the ADC from the AIB will be limited to the property authorized by the ADC while in pre-hearing detention.
3. A Special Housing Observation Log will be completed by the ADC supervisor in all cases when inmates are placed in pre-hearing detention status; the Classification Section will be notified of transfers. In the event of an inmate transfer to the ADC from the AIB, the AIB supervisor will ensure that a copy of the incident report is forwarded to classification.

D. Notifying Inmate(s) of Charges.

1. After the Charge Sheet has been prepared, the supervisor or designee will deliver it to the accused inmate within 24 hours of the completion of the investigation. At this time the inmate will be:
 - a. Informed of the nature of the charge(s).
 - b. Advised of his/her rights.
 - c. Informed of the level at which the case will be referred for disposition.
 - 1) MAJOR offenses will be referred to a Hearing Officer for disposition.
 - 2) MINOR offenses may be referred to a Hearing Officer, or when the situation warrants, disposed of by the supervisor through an informal hearing.
2. After the Charge Sheet has been delivered, and the above steps accomplished, the inmate and the employee delivering the Charge Sheet will sign the Charge Sheet in the appropriate space.

E. Rights.

1. Inmates charged with MAJOR or MINOR offenses, whose case will be disposed of at an Adjustment Hearing by the Hearing Officer, have the following rights: (These rights will be explained to the inmate).
 - a. To be present at the hearing, unless this right is waived in writing, or because of disruptive behavior.
 - b. To have witnesses (staff or inmate) present voluntary testimony on their

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behalf.

- c. To a waiting period of 24 hours prior to the hearing or to waive this waiting period in writing and request an earlier hearing.
 - d. To have the hearing conducted within 7 calendar days from the date of delivery of the Charge Sheet.
- 2. Inmates charged with MINOR offenses, whose cases will be disposed of at informal hearings conducted by a supervisor, have the following rights: (These rights will be explained to the inmate).
 - a. To waive their rights to an Adjustment Hearing.
 - b. To have the supervisor dispose of the case through an informal hearing. In these situations, inmates will not be entitled to the rights given inmates appearing before an adjustment hearing by a Hearing Officer.
 - c. To meet with the supervisor, discuss matters pertaining to the alleged offense, and accept such penalty as the supervisor is authorized to impose, if found guilty.
 - d. To decline to have the case disposed of by the supervisor and to request the case be disposed of at an adjustment hearing.

F. Procedure for the Conduct of Adjustment Hearings.

- 1. Pre-Hearing Administrative Requirements.
 - a. After delivering the Charge Sheet and advising the inmate of his/her rights:
 - 1) The supervisor or a designee will sign, and have the inmate sign, the Charge Sheet in the spaces indicated. When an inmate refuses to sign the Charge Sheet, this fact will be so noted in the space provided for the inmate's signature and initialed by the person delivering the Charge Sheet. The person delivering the Charge Sheet shall indicate the time and date that the Charge Sheet was served on the inmate.
 - 2) The duplicate copy of the Charge Sheet will be given to the inmate.
 - 3) The original copy of the Charge Sheet will then be attached to the incident report (ADC 108). At the end of each shift, the squad supervisor or designee will forward all reports to Classification for review and appropriate follow-up action. In AIB the incident reports (ADC 108) will be placed on the incident report board.
 - b. All Incident Reports (ADC 108) shall be attached to the Confinement Shift Report for review by the appropriate Confinement Branch Chief. In

AIB the incident report board will be reviewed by the Supervisor, Residential Section, or the Chief, Alternative Incarceration Branch.

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- 1)
Reports recommending adjustment hearings originating in the ADC will be delivered to the Classification Section. Reports recommending adjustment hearings originating in the AIB will
 - a) Obtain the inmate's classification or AIB file.
 - b) Attach the incident report(s) (ADC 108) and Charge Sheet to the file.
 - c) Deliver the inmate's classification file and the above mentioned documents to the designated Hearing Officer.
 - d) Recommend assistance be provided by a staff member, another inmate, or other acceptable person to inmates believed incompetent to defend themselves (e.g., inmates suffering from mental illness).
 - 2) The designated Hearing Officer will be responsible for:
 - a) Scheduling the dates of formal adjustment hearings.
 - b) Conducting hearings.
 - c) Keeping records of hearings.
 - 3) To ensure fair and impartial hearings, an ADC/ AIB employee involved in reporting an offense, the preparation or delivery of charges, or who otherwise has first hand knowledge of an offense, shall not be assigned as a Hearing Officer.
 - 4) Whenever adjustment hearings cannot be held within prescribed time limits, a continuation notice will be prepared for delivery to the inmate subject of the hearing by the staff member appointed to conduct the hearing. The continuation notice will indicate when the hearing will be scheduled.
2. Conduct of Formal Adjustment Hearings.
- a. Inmate is called before the Hearing Officer.
 - b. The Hearing Officer will inform the inmate of the charge(s) which have been placed against him/her.
 - c. The inmate enters a plea of "guilty" or "not guilty" to the charge(s).
 - d. When an inmate pleads "not guilty" to the charge(s), the inmate will be instructed to proceed with his/her defense.
 - e. A staff member or agency representative can assist inmates at disciplinary hearings if requested. A representative is appointed when it is apparent that an inmate is not capable of collecting and presenting evidence effectively on his or her own behalf. The hearing Officer will make the determination and appoint a staff person as deemed necessary.
- 1) Witnesses, witness statements and documentary evidence may

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be introduced on behalf of the inmate. However, witnesses requested by an inmate and documentary evidence may be excluded from the hearing by the Hearing Officer if it is determined to be irrelevant to the case. The reasons for denying any of the inmate's requests will be stated in writing in the Hearing Officer's Report.

- 2) All witnesses may be questioned by the Hearing Officer during the conduct of the hearing.
 - a) The accused inmate may be excluded during the testimony of any inmate whose testimony must be given in confidence.
 - b) The reasons for the accused inmate's absence or exclusion will be documented.
- 3) Upon conclusion of the presentation of matters pertaining to the inmate's defense, the inmate will be excused and the Hearing Officer will proceed to determine guilt or innocence. When information in the narrative summary of a report and/or the evidence does not support the charge shown, but does support another charge, the hearing Officer may amend the charges. When information in the narrative summary of a report and/or the evidence does not support the charge shown, the Hearing Officer may amend the charges. After a decision has been reached, the inmate will be recalled and informed of the verdict.
 - a) If found "not guilty," the inmate will be excused and the disciplinary report and all other papers pertaining to this incident will be destroyed.
 - b) If the case is dismissed, all documentation will be retained for placement in the inmate's classification/AIB file.
 - c) If found "guilty," the Hearing Officer will decide upon an appropriate penalty.
 - (1) A guilty verdict will be based solely on information obtained in the hearing process, including staff reports, statements of the inmate charged, and evidence derived from witnesses and documents.
 - (2) Authorized penalties for inmates convicted of MAJOR and MINOR offenses are contained in Attachments 1 and 2.
 - (3) In determining an appropriate penalty, the inmate's classification/AIB file should be reviewed for matters which should be taken into account with respect to the nature of the penalty.
 - d) After reaching a decision regarding the penalty, the Hearing Officer will:

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- (1) Provide the inmate with a written statement as to the evidence relied upon and the reason for the disciplinary action.
 - (2) Inform the inmate that s/he may appeal the decision to the Chief, Classification/ Records Branch (for ADC) or the Chief, Alternative Incarceration Branch (for AIB).
 - If the inmate elects to appeal the decision of the Hearing Officer, s/he will be advised how to proceed.
 - (3) Have the inmate sign the Hearing Officer Disposition Form and give a copy to the inmate.
 - (4) When inmate indicates his/her intent to appeal prior to the conclusion of the hearing, this fact will be noted on the Hearing Officer Summary Form by the Hearing Officer.
 - (5) Whenever an inmate appeals the decision of the Hearing Officer, the imposition of penalties will be held in abeyance pending final action on the appeal.
- e) Appeals of the Hearing Officer's Decision.
- (1) At the conclusion of all adjustment hearings, the Hearing Officer will inform each inmate that s/he has the right to appeal the decision of the hearing. Inmates will be instructed that if they appeal, their appeal must:
 - (a) Be submitted in writing within five (5) business days from the date of the hearing. Appeals received later than five (5) business days after a hearing will be rejected.
 - (b) Be addressed to the Chief, Classification/ Records Branch (for ADC) or the Chief, Alternative Incarceration Branch (for AIB).
 - (c) Provide specific reasons why the conviction or penalty should be reversed or reduced.
 - (2) Action of the Chief, Classification/ Records Branch or Chief, Alternative Incarceration Branch (as appropriate) in appeal cases.
 - (a) Upon receipt of an inmate's appeal, s/he shall review the case and, within 5

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business days from date of receipt,
notify the inmate concerned in writing of
his decision regarding the appeal.

(b) S/he may:

(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.

a) A copy of the appeal response will be
placed in the inmate's classification/AIB
file.

b) The decision regarding an inmate's
appeal is final.

c) When the Chief, Classification/ Records
Branch or Chief, AIB is absent from
duty, making it impossible for the appeal
to be heard within the 5 day time limit,
the appeal will be decided by another
ADC/AIB Captain who has had no
previous involvement in the case.

3. Conduct of Informal Adjustment Hearings.

a. Informal hearings may be conducted at the discretion of the on-duty
supervisor in cases where inmates have been accused of committing
MINOR offenses only.

b. A Charge Sheet will be prepared and delivered to the inmate.

c. The supervisor will advise the inmate of the nature of the charge(s), and
indicate the intent to dispose of the matter through an informal hearing.
At the same time, an inmate shall be advised that, by consenting to an
informal hearing, s/he waives those rights afforded inmates whose cases
are referred for formal adjustment hearings.

d. If the inmate declines to have the case disposed of by the supervisor, the
supervisor will refer the case for a formal adjustment hearing by a
Hearing Officer.

e. In cases where an inmate consents to an informal hearing, the following
procedure will be followed:

1) The supervisor and reporting employee (if required) shall meet in
private with the inmate to discuss the case.

2) The offense report and evidence concerning the offense will be
reviewed with the inmate.

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- 3) The inmate will be permitted to make a statement and present evidence in defense.
- 4) Other persons may be questioned, and other evidence examined.
- 5) The supervisor will evaluate all matters relating to the offense and reach a decision regarding the inmate's guilt or innocence. If a finding of "not guilty" is reached, the disciplinary report and all other papers pertaining to this incident will be destroyed.
- 6) If the case is dismissed, all documentation will be retained for placement in the inmate's classification/AIB file.
- 7) If the inmate is found "guilty," the supervisor may proceed to impose one of the penalties authorized in Attachment 3.
 - a) The penalty will be noted on the Charge Sheet.
 - b) The Charge Sheet will then be attached to the incident report (ADC 108) and forwarded to the Classification/AIB Section for review and appropriate follow-up action.
- 8) At the time an inmate is advised of the penalty, the supervisor will also inform him/ her that the decision may be appealed to higher authority. If an inmate indicates that s/he intends to appeal the decision of the supervisor, this fact will also be noted on the Charge Sheet, and the inmate will be advised of the procedure for submitting appeals.
- 9) The imposition of penalties will be held in abeyance pending final action on the appeal.
- 10) Appeals of informal hearing decisions will be addressed to the Chief, Classification/ Records Branch or the Chief Alternative incarceration Branch and must:
 - a) Be submitted within five (5) business days from the date of the informal hearing. Appeals received after this time will be rejected.
 - b) State reasons why the inmate believes the decision should be reversed or modified.
- 11) Upon receipt of an inmate's appeal of an informal hearing, the appropriate Branch Chief will appoint a Hearing Officer, equal to or higher in rank of the supervisor who conducted the informal hearing, to act on the appeal.
 - a) Based upon matters present in the appeal, a review of the incident report (ADC 108) and supervisor's action, the Hearing Officer will render a decision in the case.

The Hearing Officer may:

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- (1) Approve or disapprove the decision of the supervisor.
 - (2) Reduce or suspend a penalty imposed by the supervisor.
 - b) The designated Hearing Officer will have five (5) business days from date of receipt of an appeal in which to render a decision and notify the inmate concerned. Notification will be made in writing.
 - c) A copy of the Hearing Officer's decision, together with the inmate's letter of appeal, will be forwarded for retention in the inmate's classification/AIB files.
 - d) Decisions of Hearing Officers are final in appeals of informal hearings.
4. Post Hearing Administrative Requirement – Formal Adjustment Hearings.
 - a. Upon conclusion of Adjustment Hearings, the Hearing Officer will:
 - 1) Ensure that the Hearing Disposition Form is properly completed and signed.
 - 2) Forward the inmate's file and all documentation concerning the hearing to the Supervisor, Classification Section (ADC) or Residential Section Supervisor (AIB) for review.
 - b. Responsibilities of the Supervisor, Classification Section (ADC) or Residential Section Supervisor (AIB) reviewing the case include:
 - 1) Notification of approval or disapproval of the decision reached by the hearing authority in the appropriate space on the Disposition Summary Form.
 - 2) Order a rehearing.
 - 3) Modify, reduce, or suspend any penalty imposed.
 - c. Disposition of Documents - recording Requests of Hearings.
 - 1) After review by the Supervisor, Classification Section (ADC) or Residential Section Supervisor (AIB) inmate files and all other documentation pertaining to the hearing will be delivered to the Classification Section (ADC) or to the AIB Administrative Office as appropriate.
 - 2) The outcome of each hearing is to be recorded in synopsis form for record and reporting purposes. This record should include the names of inmates subject to disciplinary hearings, the dates of offenses, the nature of offenses, the locations where offenses occurred, the type of hearing held, the verdict, penalties imposed and the name of the person who conducted the hearing.

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- 3) Once the above information has been recorded, the inmate's file, together with all documentation, will be retained by the Classification Section or the AIB Administrative Office as appropriate.

G. ADC Form 109.

1. The ADC/ AIB Form 109 (Attachment 6) may be used to record minor infractions and warnings that do not require any further action.
2. The form will be completed in its entirety by the staff member involved.
3. The reporting staff member will have the offending inmate sign the form. If the inmate refuses, the staff member will note the refusal on the form.
4. The form will be checked for completeness, initialed by a supervisor, and delivered to the Classification Section or AIB Administrative Office for placement in the inmate's file.

H. ADC Form 309.

1. The ADC Form 309 (attachment 7) may be used by the Direct Supervision housing unit deputy to document any violations of the Direct Supervision Section. This form may also be utilized to document positive behavior or notable helpful actions of an inmate assigned to direct supervision.
2. This form will be completed in its entirety by the housing unit deputy.
3. The housing unit deputy will have the inmate sign the form.
4. The form will be maintained in the inmate's housing unit folder and a copy will be forwarded to the Classification Section.

- I. All sworn personnel assigned to the ADC/ AIB shall receive training in the procedures set forth in this SOP.



**STACEY A. KINCAID
SHERIFF**

**08/24/01
DATE APPROVED**

**08/24/01
EFFECTIVE DATE**

Revised: October 2002, May 2006, July 2006, June 2013, November 2016