

Ch. 93 STATE CORRECTIONAL INSTT. AND FAC. 37 § 93.10

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§ 93.10. Inmate discipline.

(a) Rules which define expectations and prohibitions for inmate behavior will be established by the Department of Corrections and distributed to the inmate population. There shall be two classes of misconduct charges, Class I and Class II.

(1) Inmates found guilty of Class I misconduct charges may be subjected to one or more of the following sanctions:

- (i) Reduction of the classification of the misconduct to a Class II and any sanction permitted for Class II misconducts.
- (ii) A sanction permitted for Class II misconducts; without change in class of misconduct.
- (iii) Change of cell assignment, including placement in the Restricted Housing Unit or restrictive confinement in a general population cell for a period of time not to exceed 6 months for any one misconduct charge.
- (iv) Change of program level.

(2) Inmates found guilty of Class II misconducts may be subjected to one or more of the following sanctions:

- (i) Reprimand.
- (ii) Suspension of privileges for a specified period of time.
- (iii) Payment of the fair value of property lost or destroyed or for expenses incurred as a result of the misconduct.
- (iv) Change of cell assignment excluding placement in the Restricted Housing Unit.
- (v) Change, suspension or removal from job.

(b) Written procedures which conform to established principles of law for inmate discipline including the following will be maintained by the Bureau and distributed to the inmate population:

- (1) Written notice of charges.
- (2) Hearing before an impartial hearing body.
- (3) Opportunity for the inmate to tell his story and to present relevant evidence.
- (4) Assistance from an inmate or staff member at the hearing.
- (5) Written statement of the decision and reasoning of the hearing body, based upon the preponderance of the evidence.
- (6) Opportunities to appeal the decision of the hearing body.

Source

The provisions of this § 93.10 adopted February 17, 1984, effective February 18, 1984, 14 Pa.B. 534.

93-11

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DEPARTMENT OF CORRECTIONS

Pt. III.

Notes of Decisions

Evidence

Although inmate did not receive a full investigatory report, a misconduct report provided the inmate with sufficient information from which the inmate could prepare a defense and therefore the inmate's right to call witnesses and present evidence in the inmate's behalf was not violated. *Mays v. Fukomer*, 532 A.2d 750 (Pa. Cmwlth. 1989).

Review

The Board's decision to rescind a previously issued grant of parole was entitled to the same deference as a denial of parole and was therefore nonreviewable. *Johnson v. Board of Probation and Parole*, 532 A.2d 50 (Pa. Cmwlth. 1987).

Garnishment

To the extent that plaintiff, an inmate, claimed that prison authorities had no legal right to assess prisoners for the damage caused in a riot, the plaintiff's claim was of dubious merit. Requiring restitution by an inmate convicted of a misconduct of the "fair value of property lost or destroyed or for expenses incurred as a result of the misconduct" was authorized under this regulation. *King v. Lehman*, No. 93-6525, 1994 U. S. Dist. LEXIS 13204 (E. D. Pa. September 29, 1994), complaint dismissed, 1995 U. S. Dist. LEXIS 3526 (E. D. Pa. 1995), aff'd, No. 95-1248, 1995 U. S. App. LEXIS 23814 (3d Cir. July 21, 1995).

The garnishment of an inmate's prison account was an appropriate way to enforce a restitution requirement and frequently may be the only practical means of doing so. *King v. Lehman*, No. 93-6525, 1995 U. S. Dist. LEXIS 3526 (E. D. Pa. March 22, 1995), aff'd, No. 95-1248, 1995 U. S. App. LEXIS 23814 (3d Cir. July 21, 1995).

Garnishment of an inmate's prison account was an appropriate way to enforce a restitution requirement and frequently may be the only practical means of doing so. As a practical matter, the imposition of restitution in a situation where the prisoner was one of the ring leaders in a riot constituted no more than a requirement that the inmate work-off some of the expenses incurred by the taxpayers because of the riotous, destructive conduct. *King v. Lehman*, No. 93-6525, 1995 U. S. Dist. LEXIS 3526 (E. D. Pa. March 22, 1995), aff'd, No. 95-1248, 1995 U. S. App. LEXIS 23814 (3d Cir. July 21, 1995).

§ 93.11. Housing.

(a) No inmate shall have a right to be housed in a particular institution or in a particular area within an institution.

(b) Confinement in a Restricted Housing Unit (RHU), other than under procedures established for inmate discipline, will not be done for punitive purposes. The Department of Corrections will maintain written procedures which describe the reasons for housing an inmate in the RHU and require due process in accord with established principles of law for an inmate who is housed in the RHU. All inmates confined in the RHU will be reviewed periodically by institution staff.



Source

The provisions of this § 93.11 adopted October 22, 1971, effective October 23, 1971, 1 Pa.B. 2017; amended March 9, 1973, effective March 10, 1973, 3 Pa.B. 447; amended February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (10851).

93-12

(249006) No. 289 Dec. 98

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			POLICY STATEMENT Commonwealth of Pennsylvania • Department of Corrections		
			Policy Subject: INMATE DISCIPLINARY AND RESTRICTED HOUSING PROCEDURES DC-ADM 801		Policy Number:
Date of Issue: May 20, 1994		Authority: 	Effective Date: Sept. 20, 1994		

I. Authority

The authority of the Commissioner of Corrections to direct the operation of the Department of Corrections is established by Sections 201, 206, 506, and 901(b) of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, 175, as amended.

II. Purpose

A consistently applied system of sanctions in response to inmate violations of Department of Corrections rules and regulations is established to ensure the safe and orderly operation of institutions and Community Corrections Facilities.

III. Applicability

This policy shall be applicable to all inmates and staff in all Department of Corrections' facilities and Community Corrections Centers.

IV. Definitions

For the purpose of this policy, the following definitions shall apply:

- A. **Central Office Review Committee (CORC)** - A panel of at least three (3) Central Office staff members appointed by the Commissioner, including an attorney from the Office of Chief Counsel, which conducts final reviews of institution grievance and misconduct appeals.

- B. Disciplinary Custody - The maximum restrictive status of confinement to which inmates guilty of Class I misconducts may be committed. Inmates shall be placed in disciplinary custody status for periods no longer than ninety (90) days per misconduct report.**
- C. Hearing Examiner - An employe of the Department of Corrections Central Office who conducts inmate misconducts hearings. The hearing examiner reviews evidence, determines relevance of witnesses, interviews witnesses, determines guilt or innocence, and imposes sanctions consistent with this policy.**
- D. Misconduct - Any violation of Department of Corrections Rules, Regulations or Policies as outlined in Section VI of this policy.**
- E. Pre-Hearing Confinement - A temporary administrative status of confinement in the inmate's general population cell or the RHU pending the outcome of a misconduct hearing.**
- F. Program Review Committee - A panel of three (3) members consisting of the two (2) Deputy Superintendents, Inmate Program Manager, or Unit Manager. The Superintendent may designate appropriate substitutes. The Program Review Committee conducts Administrative Custody hearings, thirty (30) day reviews, makes decisions about continued confinement in the RHU/SMU, and hears all appeals of misconducts.**
- G. Restricted Housing Unit - An area or group of cells for inmates assigned to disciplinary or administrative custody status.**
- H. Special Management Unit - (SMU) A special unit within designated Department of Corrections institutions designated to safely and humanely handle inmates whose behavior presents a serious threat to the safety and security of the facility, staff, other inmates, or him or herself.**
- I. Mental Health Cases - Inmates who have a mental health stability score of 3 or above, are listed on the institution's Psychiatric Review Team roster, or in the opinion of the staff, may be suffering from a serious mental illness.**

V. Policy

It is the policy of the Department of Corrections to operate a disciplinary process which provides clear notice of prohibited behavior, outlines a fundamentally fair hearing process, and establishes consistent sanctions for violations of Department of Corrections rules and regulations.

VI. Procedure

All inmates under the jurisdiction of the Department of Corrections are expected to follow the rules and regulations. This section provides a list of prohibited behavior which can result in misconduct charges, the misconduct hearing procedures, and the appeal procedures.

A. Misconduct Charges

Class I Charges Category A

1. Violation of the PA Crimes Code (must be specified)

- | | |
|--|---|
| 1.a. Assault - Including any aggressive physical contact with a potential for injury towards an employe. | |
| 1.b. Murder | 1.l. Kidnapping |
| 1.c. Rape | 1.j. Aggravated Assault |
| 1.d. Arson | 1.k. Voluntary Manslaughter |
| 1.e. Riot | 1.i. Extortion by Threat of Violence |
| 1.f. Escape | 1.m. Involuntary Deviate Sexual Intercourse |
| 1.g. Robbery | 1.n. Threatening an Employee or Their Family with Bodily Harm |
| 1.h. Burglary | |

Class I Charges Category B

2. Fighting.
3. Threatening another person.
4. Engaging in sexual acts with others, or sodomy.
5. Wearing a disguise or mask.
6. Failure to report an arrest for any violation of the Pennsylvania Crimes Code (Community Corrections Centers only).
7. Refusing to obey an order.
8. Possession of contraband including money, implements of escape, unprescribed drugs or drugs which are prescribed, but the inmate is not authorized to possess, drug paraphernalia, poisons, intoxicants, materials used for fermentation, property of another, weapons or other items which in the hands of an inmate present a threat to self, others or to the security of the institution. When an inmate is charged under this section with possession of an item of contraband which is a weapon or item which in his hands presents a threat to others or to the security of the institution, and the item also has a legitimate use in the

- area discovered, credible evidence that the item has been used only for the legitimate purpose shall be considered to mitigate the misconduct to a Class II.
9. Possession, or use of a dangerous or controlled substance.
 10. Possession, or use, of intoxicating beverages.
 11. Extortion, or blackmail.
 12. Any violation of the Pennsylvania Crimes Code not in Category I (must be specified).

Class I Charges Category C

13. Tattooing, or other forms of self mutilation.
14. Destroying, altering, tampering with, or damaging property.
15. Indecent exposure.
16. Engaging in, or encouraging unauthorized group activity.
17. Refusing to work, or encouraging others to refuse to work.
18. Breaking restriction or quarantine.
19. Gambling or conducting a gambling operation.
20. Unauthorized use of the mail or telephone.
21. Possession or circulation of a petition, which is a document signed by two or more persons requesting or demanding that something happen or not happen, without the authorization of the Superintendent.
22. Using abusive or obscene language to an employe.

Class I Charges Category D

23. Failure to stand count or interference with count.
24. Violating a condition of a pre-release program (must be specified).
25. Violation of visiting regulations (specified).
26. Lying to an employe.
27. Presence in an unauthorized area.
28. Lending or borrowing property.
29. Failure to report the presence of contraband.

Class II Charges

30. Body punching, or horse play.
31. Taking unauthorized food from the dining room or kitchen.
32. Failure to report to work, or unexcused absence from work.
33. Smoking where prohibited.
34. Possession of any item not authorized for retention or receipt by the inmate not specifically enumerated as Class I contraband.
35. Any violation of a rule or regulation in the Inmate Handbook not specified as a Class I misconduct charge.

B. Any attempt to commit any of the above listed charges shall constitute a misconduct of the same classification as the completed act would be.

C. Misconduct Sanctions

- 1. Misconduct sanctions shall be imposed by the hearing examiner.**
- 2. Inmates found guilty of Class I misconduct charges may be subject to any one or more of the following sanctions:**
 - a. Assignment to disciplinary custody status for a period not to exceed ninety (90) days per misconduct report.**
 - b. Cell restriction for a period not to exceed thirty (30) days per misconduct report. Cell restriction is total confinement to general population cell, dorm area, or cubicle, except for meals, showers, one (1) formal religious service per week, commissary, law library and one (1) specified daily exercise period. Participation in programs, school, and work are suspended.**
 - c. Loss of privileges for a prescribed period of time. Privileges lost must be specifically identified and should, where possible, be related to the misconduct violation.**
 - d. Payment of fair value for property lost or damaged or for expenses incurred as a result of the misconduct.**
 - e. Reprimand, warning, counselling.**
 - f. Suspension or removal from job.**
 - g. Confiscation of contraband.**
 - h. Revocation of pre-release status.**
- 3. The hearing examiner may reduce the classification of any Class I misconduct (except Category A charges) to a Class II misconduct.**
- 4. Inmates found guilty of Class II misconduct charges are subject to one or more of the above sanctions except placement in disciplinary status, cell restriction, change of custody level, and loss of pre-release status. The only permissible sanction for Class II category contraband is confiscation of the contraband.**
- 5. Presumptive range of misconduct sanctions.**

Class I Charges Category A

**No less than 30 days disciplinary custody status
No more than 90 days disciplinary custody status**

Class I Charges Category B

No less than 30 days cell restriction
No more than 60 days disciplinary custody status

Class I Charges Category C

No less than 15 days cell restriction
No more than 30 days disciplinary custody status

Class I Charges Category D

No less than 15 days loss of privileges
No more than 15 days disciplinary custody status

Class II Charges

No less than 5 days loss of privileges
No more than 15 days loss of privileges

The hearing examiner will have the authority to impose a term which deviates from the presumptive sanctioning range (except in cases of bodily harm or injury). If the hearing examiner does vary from the presumptive range, the rationale for the exception must be documented as part of the record of the hearing.

6. Time given for misconducts involving bodily injury, and attempt to commit bodily injury, or use of a weapon will be served in its entirety. For other misconducts, the Program Review Committee may consider a release to general population upon completion of half of the sanction imposed.

The Superintendent or PRC may change an inmate from DC status to AC status only upon expiration of the DC sanction and only if proper notice and hearing procedures are provided as outlined in DC-ADM 802.

7. At any time, the Superintendent or designee may reduce the disciplinary sanction imposed on any inmate other than those with misconducts involving bodily injury, attempts to commit bodily injury or use of a weapon, based on the security needs of the institution in accordance with the "Administration of the Restricted Housing Unit" policy. When this occurs, the Superintendent shall notify the Regional Deputy Commissioner via Weekly Status Report.

8. In cases of multiple misconduct sanctions, the Superintendent may reduce the total amount of disciplinary time based upon positive adjustment by the inmate. Disciplinary time cannot be reduced beyond the longest sanction imposed per misconduct report for Category A charges or half of the longest sanction imposed for other category charges.
9. The PRC or the Superintendent will have the discretion to reduce disciplinary sanctions for mental health cases.

D. RHU Procedures for Disciplinary Custody Status Inmates

1. Disciplinary custody status inmates are housed in separate cells from general population and administrative custody status inmates.
2. Smoking in the disciplinary custody status housing area will be limited to one pack of cigarettes every two (2) weeks, to be purchased from the institution commissary. Indigent inmates may be provided with cigarettes consistent with policy 15.3.6, VI. D., Smoking in Department of Corrections Buildings and Facilities.
3. Inmates in disciplinary custody status will not have the privileges of radios, televisions, telephone calls, personal property or commissary (except cigarettes, toilet articles, legal/correspondence materials, and prescribed medications).
4. Visits are limited to one (1) non-contact visit per month with immediate family only. Legal visits will be permitted. In cases of emergencies, a telephone call may be approved by the Unit Manager or a Commissioned Officer.
5. Disciplinary custody status inmates will be permitted legal materials that may be contained in one (1) records center box. Any additional legal material will be stored and available upon request on an even exchange basis. A personal Bible, a Holy Koran, or equivalent religious publication is permitted.
6. Inmates will be provided access to the institution law library by requesting legal materials in accordance with Departmental policy. Other library books may be requested on a weekly basis.
7. Inmates in disciplinary custody status will be provided with an R.H.U. jumpsuit and footwear. Basic issue toilet articles will be

provided on request. Two (2) pair of personal undergarments are permitted. No other personal property is permitted. Outerwear for exercise will be provided as needed.

8. Disciplinary custody status inmates will receive one (1) hour exercise per day, five (5) days per week, and shall be permitted a minimum of three (3) showers and three (3) shaves per week.
9. The Program Review Committee will interview all disciplinary custody cases every thirty (30) days.

E. Misconduct Reports

1. Inmates charged with any of the listed violations will receive a misconduct report
2. Content of the Misconduct Report - The misconduct report is used to give notice to the inmate of the conduct violations with which he/she has been charged and the facts upon which the charges are based. The misconduct report will be used as evidence against the inmate at the misconduct hearing.
3. Charging Staff Member - The misconduct report shall be written by a staff member who has personal knowledge of the misconduct violation or by a staff member at the direction of a person who has personal knowledge of the misconduct.
4. Time of Writing of the Misconduct Report - The misconduct report should be written the same day/shift that the charging staff member has knowledge of the incident. If not, the misconduct report must include a justification for the delay.
5. Approval by Ranking Officer on Duty - Prior to service of the misconduct report on the inmate, the report shall be reviewed and approved by the shift commander. Pre-hearing confinement is not to be routine but utilized only upon approval of the shift commander based on an assessment of the incident and the need for control.

F. Service of Misconduct Report

1. The inmate shall be personally served with the misconduct report within a reasonable time after it is written.
2. If an inmate is placed in pre-hearing confinement, the misconduct report shall be served within three (3) hours of the inmate's placement in pre-hearing confinement. If the inmate is

not placed in pre-hearing confinement, notice shall be served the same day the misconduct report is written.

3. The misconduct report will, except at Community Corrections Centers, be served by someone other than the charging staff member.
4. The staff member who serves the misconduct shall record the date and time of service on the misconduct report immediately prior to giving the inmate a copy of the misconduct report.
5. The Witness Request form and the Inmate Version form shall be delivered to the charged inmate with the misconduct report. The inmate must fill out the Witness Request form and submit it to the block officer or Community Corrections Center staff member no later than 9:00 a.m. the next working day. The block officer shall sign the Witness Request form, give a copy to the inmate, and forward the form to the hearing examiner. The inmate should bring the Inmate Version form to the hearing.

G. Misconduct Hearing

1. **Scheduling** - The misconduct hearing shall be scheduled no less than twenty four (24) hours nor more than six (6) calendar days after notice of the charges is served.
2. The misconduct hearing shall be conducted by a Department of Corrections' hearing examiner.
3. **Inmate Assistance**
 - a. The inmate shall be permitted assistance at the hearing from any staff member or any inmate in general population status. The assistant must be willing to serve.
 - b. The inmate shall be permitted to meet with the assistant an appropriate period of time before the hearing.
4. **Inmate Version** - At the hearing, the charges will be read to the inmate. The hearing examiner will request the inmate's plea to each individual charge. The inmate may submit a written version or may orally present his or her version which shall be summarized as part of the record of the hearing.
5. **Witnesses**
 - a. The hearing examiner may require the presence of any staff member or witness.

- b. Up to three (3) relevant witnesses, who have been properly requested, shall be permitted. One of the three witnesses may be the staff member who witnessed the misconduct violation, or the charging staff member.
- (1) **Relevance** - The inmate must state on the Witness Request form why the witness is relevant to the hearing. The witness must be a staff member, official volunteer, contract employee, or an inmate, unless the hearing is conducted at a Community Corrections Facility, where civilian witnesses may be permitted.
 - (2) **Availability** - If the inmate properly requests a witness who is not available at the time of the hearing, the inmate may elect to either waive the six (6) calendar days hearing requirement or to have the witness execute a written statement under oath which will be presented in lieu of live testimony. If the inmate elects to have the witness present, the hearing will be rescheduled at the earliest practical time after the witness is available.
 - (3) If an inmate witness or assistant becomes disruptive at the hearing, he or she will be removed.
- c. The hearing examiner may question any witness. The charged inmate shall be permitted a reasonable opportunity to pose relevant questions for any adverse witness to respond to. The extent of questioning shall be controlled by the hearing examiner.
- d. Determinations of credibility shall be made by the hearing examiner.
- e. All testimony shall be under oath.
- f. If the inmate elects to plead guilty or waive his/her right to a hearing, no witnesses will be required.
6. **Confidential Source of Information** - When the misconduct report is based upon information supplied by a confidential informant, the following procedure shall be followed:
- a. An in-camera hearing (without the charged inmate present) will be conducted to determine the reliability of the informant. The informant must be established as reliable by a preponderance of evidence showing:

- (1) How, where and when the informant was in a position to observe the violation or gain personal knowledge of the violation.
 - (2) What other witnesses have corroborated the informant's statement and how, or how and when the informant gave reliable information in the past.
- b. The information provided by the informant, but not the identity of the informant will be disclosed to the charged inmate during the hearing. The charged inmate will have the opportunity to respond to the facts presented in the informant's statement.
- c. In cases where the information provided by the informant could by itself reveal the identity of the informant, the examiner may withhold identifying information from the charged inmate.

H. Disposition of Charges

1. As soon as possible after hearing all evidence, but within the six (6) calendar day limit, the hearing examiner shall determine whether the inmate is guilty of the misconduct charges based upon a preponderance of the evidence, that it is more likely than not that the inmate committed the misconduct charge or charges.
2. After the decision is reached by the examiner, the inmate shall be called before the examiner to hear the decision.
3. If the inmate is found not guilty, that fact shall be recorded in writing. The inmate shall be given a copy. No rationale for the decision is required. All record of the misconduct shall be removed from the inmate's institution file and retained in a separate institution file until the inmate is released or transferred.
4. If the inmate is found guilty, a written summary of the hearing will be prepared which will include the facts relied upon by the hearing examiner to reach the decision, and the reasons for the decision. The summary shall also include findings of fact concerning the testimony of each witness presented. A copy of the written summary will be given to the inmate. The inmate shall be advised that he/she has fifteen (15) days to submit a written request for appeal to the Program Review Committee.

5. The hearing examiner may dismiss any misconduct report without prejudice, to permit recharge without determination of guilt or innocence.

L Appeals

1. First Level of Appeal - Program Review Committee

- a. Any inmate who has been found guilty of a misconduct charge or charges may appeal to the Program Review Committee for initial review within fifteen (15) days of the hearing. The three (3) valid bases for an appeal to the Program Review Committee are:
- (1) The procedures employed were contrary to law, this policy or the I.C.U. Consent Decree.
 - (2) The punishment is disproportionate to the offense. Sanctions imposed outside of the presumptive sentencing range may be appealed on this basis.
 - (3) The findings of fact were insufficient to support the decision.
- b. No appeals from a finding of not guilty are permitted.
- c. All appeals shall be in writing. Only one (1) appeal to the Program Review Committee shall be permitted in the case of each misconduct report.
- d. Any inmate may seek the assistance of a staff member or an inmate in the same population status in the preparation of an appeal. The inmate appellant must sign the appeal.
- e. The appeal shall include a brief statement of the facts relevant to the appeal. The text must be legible and presented in a courteous manner. The inmate may state any claims concerning alleged violations of Department Directives and Regulations or the I.C.U. Consent Decree, or other law.
- f. The Program Review Committee will address each issue raised by the inmate, and may, at its discretion, consider any other matter relevant to the issues raised. The Program Review Committee is not required to address issues not raised or improperly raised by the appellant.

- g. The Program Review Committee shall have the power to:**
- (1) Reject any appeal which does not conform to Sections a. through f. above.**
 - (2) Uphold the hearing examiner's decision.**
 - (3) Uphold the finding of guilt, but modify the punishment.**
 - (4) Vacate the decision and remand back to the hearing examiner for a rehearing.**
 - (5) Vacate the decision and the charge to permit recharge and rehearing.**
 - (6) Dismiss the charge and prohibit recharge.**
 - (7) The Program Review Committee may not impose a greater punishment than has been designated by the hearing examiner. The Program Review Committee will provide a brief written statement to the inmate of the reasons for its decision within five (5) working days of receipt of an appeal.**

2. Second Level of Appeal - Superintendent

- a. The Inmate may appeal the decision of the Program Review Committee to the Superintendent within five (5) days of receipt of the written P.R.C. decision.**
- b. The Superintendent will address all issues raised by the inmate and may, at his/her discretion, consider any other matter relevant to the issues raised. He/she is not required to address issues not raised or improperly raised by the appellant.**
- c. The Superintendent may make any decision permitted to the Program Review Committee. The decision of the Superintendent will be in writing and will be forwarded to the inmate within three (3) working days of receipt of the appeal. Any day that the Superintendent is absent from the institution will not be included in the three (3) working days.**

3. Final Appeal - Office of Chief Counsel

- a. The inmate may appeal the decision of the Superintendent to the Office of Chief Counsel within seven (7) calendar days of receipt of the Superintendent's decision.**

- b. An attorney will review the issues of appeal and the complete record of the hearing and previous appeals. The attorney may respond directly to the inmate or refer the appeal to the Central Office Review Committee (CORC) for further review. A final decision will be provided to the inmate within twenty-one (21) days of receipt of the appeal to final review.
- c. The attorney will address all issues properly raised by the inmate and may review any other matter relevant to the issues raised and may affirm, modify, reverse, or take other appropriate action with regard to the appeal.

J. Waivers

1. An inmate may voluntarily waive the hearing process outlined in this policy at any time prior to the hearing's completion. The inmate may also waive any witness requests or time limitations relating to the hearing or service of notice.
2. All waivers shall be in writing and shall be signed by the charged inmate.

K. Inmate Refusal to Attend the Hearing

1. Inmates who refuse to attend a hearing will be advised they have a right to a hearing but may waive that right. The inmate will be asked to sign the waiver.
2. If the inmate refuses to attend the hearing or sign a waiver, two (2) staff members who witnessed the refusal will sign the waiver form. The hearing will be conducted without the charged inmate present. The hearing examiner will determine guilt or innocence, and a sanction will be imposed if the inmate is found guilty.
3. The inmate may appeal the results of a hearing he/she refuses to attend in accordance with Section I above.

L. Inmate Unable to Attend

If the inmate is physically or mentally unable to attend or participate in a hearing, the hearing examiner shall postpone the hearing until the inmate is able to attend and participate. The decision to postpone a hearing under this section shall be in writing and shall be made at the time the hearing would have been held.

M. Community Corrections**1. Definitions**

- a. **Center Director** - The Director of the Community Corrections Center or the authorized designee of the Director.
- b. **Regional Director** - The Director of the region in which a Community Corrections Center is located.
- c. **Hearing Committee** - The persons designated by the Center Director to conduct misconduct hearings at the Community Corrections Center.
 - (1) The Committee shall be impartial and shall consist of at least one staff member but no more than three staff members.
 - (2) The Committee shall perform the functions performed by hearing examiners as outlined in this directive.

2. Procedures

- a. **Misconduct hearings held at a Community Corrections Facility will be heard by a hearing committee.**
- b. **If a Community Corrections Inmate is placed in pre-hearing confinement, the misconduct report shall be served within 48 hours of the inmate's placement in pre-hearing confinement.**
- c. **If a Community Correction's Inmate is returned to an Institution under pre-hearing confinement, the hearing will be conducted at the Institution by a hearing examiner.**
- d. **Misconduct reports will be processed and hearings conducted as outlined in Section VI of this policy.**
- e. **Appeals**
 - (1) **If the inmate has been permanently returned to an Institution appeals may be filed in accordance with Section X of this directive.**
 - (2) **Inmates remaining at a Community Corrections Facility may appeal misconduct hearing results to the Director, Community Corrections, Bureau of Community Corrections, P. O. Box 598, Camp Hill, Pennsylvania 17001-0598.**

VI. Suspensions During an Emergency

In an extended emergency situation or extended disruption of normal institution operation, any provision or section of this policy may be suspended upon approval of the Commissioner of Corrections.

VII. Rights Under this Directive

This directive sets out policy and procedure. It does not create rights in any person nor should it be interpreted or applied in such a manner as to abridge the rights of any individual. The directive should be interpreted to have sufficient flexibility so as to be consistent with law and to permit the accomplishment of the purpose of the directives and policies of the Department of Corrections.

IX. Superseded Policy and Cross-Reference

This policy supersedes DC-ADM 801 dated October 29, 1992.

Policy Manual Cross-Reference - DC-ADM 802, DC-ADM 804

ACA Cross References - 3-4214 through 3-4236, 3-4250, 3-4254, and 3-4260.



BULLETIN
Commonwealth of Pennsylvania • Department of Corrections

[Handwritten initials]

To: Superintendents Boot Camp Commander Bureau Directors	Policy Subject: INMATE DISCIPLINARY AND RESTRICTED HOUSING PROCEDURES DC-ADM 801	
	Policy Number: DC-ADM 801-1	
	Policy Issue Date: May 20, 1994	
Date of Issue: April 10, 1995	Authority: <i>Raymond Clymer Jr.</i>	Effective Date: April 10, 1995

Administrative Directive 801, Section VI D.3, limits visits to one (1) non contact visit per month with immediate family only. It also indicates that legal visits will be permitted. Religious advisors are not, however, addressed in the policy.

This bulletin amends Section VI D.3, to permit visits from religious advisors, in accordance with Administrative Directive 812, for those inmates who are in Disciplinary Custody status.

cc: Executive Deputy Clymer
Regional Deputies

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DELUINE
DEPUTY COMMISSIONER



BULLETIN

Commonwealth of Pennsylvania • Department of Corrections

To: Superintendents Boot Camp Commander Executive Staff Regional Directors	Policy Subject: DC-ADM 801 Inmate Disciplinary and Restricted Housing Procedures	
	Policy Number: DC-ADM 801-2	
	Policy Issue Date: May 20, 1994	
Date of Issue: 8-16-95	Authority: <i>Raymond G. ...</i>	Effective Date: 8-16-95

Section VI.D.5., RHU Procedures for Disciplinary Custody Status Inmates, is amended by this Bulletin to allow inmates to maintain religious, as well as legal materials, in one(1) records center box.

Kay Kishbaugh




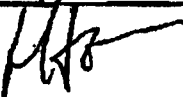
Bulletin
Commonwealth of Pennsylvania • Department of Corrections

To: Executive Staff Superintendents Regional Directors	Policy Subject: DC-ADM Inmate Disciplinary and Restricted Housing Procedures	
	Policy Number: DC-ADM 801-3	
	Policy Issue Date: May 20, 1994	
Date of Issue: February 12, 1997	Authority: 	Effective Date: April 14, 1997

The revised DC-ADM 816, Inmate Compensation Policy includes language which mandates that any employed inmate found guilty of a Class 1, Category A misconduct is to be removed from his/her job assignment. Therefore, Section VI. C -2, Misconduct Sanctions, of DC-ADM 801, Inmate Disciplinary and Restricted Housing Procedures is amended to include:

- j. Any employed inmate found guilty of a Class 1, Category A misconduct is to be removed from his/her job assignment.

Please be guided accordingly.

		Bulletin Commonwealth of Pennsylvania • Department of Corrections	
		To: Executive Staff Superintendents Regional Directors	Policy Subject: Inmate Disciplinary and Restricted Housing Procedures
		Policy Number: DC-ADM 801-4	
		Policy Issue Date: May 20, 1994	
Date of Issue: October 1, 1997	Authority: 	Effective Date: November 1, 1997	

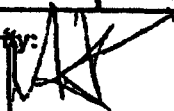
The procedures for appeal to final review outlined under DC-ADM 801, VI, 1, 3 are amended as follows:

- (1) The Chief Hearing Examiner will review and respond to all misconduct appeals to final review. The Chief Hearing Examiner will review the misconduct, the hearing report, all appeals therefrom, and the issues raised to final review. All appeals from institution which are subject to the ICU vs. Shapp Consent Decree will be reviewed by an attorney prior to response by the Chief Hearing Examiner.
- (2) Upon completion of final review the Chief Hearing Examiner, will respond directly to the inmate in all cases where the position taken by the institution is upheld.
- (3) In all cases where the action of the Hearing Examiner, PRC or Superintendent is reversed or amended, or where a matter is remanded, the Chief Hearing Examiner will prepare a letter to the Inmate and a memorandum to the Superintendent. The Chief Hearing Examiner will forward the letter and memorandum to the appropriate Regional Deputy Commissioner for review and signature.
- (4) The Chief Hearing Examiner will notify Counsel for the ICU class of the disposition at final review of any matter raised to final review alleging violation of the ICU vs. Shapp Consent Decree.

It is the intent of the Department of Corrections to provide inmates with a complete and timely review of all appeals properly raised to final review. These amendments have been established to ensure timeliness at final review while continuing to provide a thorough, impartial review of the issues.




Bulletin
Commonwealth of Pennsylvania • Department of Corrections

To: Executive Staff Superintendents Regional Directors	Policy Subject: Inmate Disciplinary and Restricted Housing Procedures	
	Policy Number:	DC-ADM 801-6
	Policy Issue Date:	October 20, 1994
Date of Issue: October 10, 1997	Authority: 	Effective Date: November 1, 1997

The purpose of this bulletin is to affirm that the role of the Hearing Examiner is to serve as an impartial party in the inmate disciplinary process for rule violations. This is to ensure objectivity and that hearings for rule violations are conducted by persons not involved in the incident or rule/regulation violation.



BULLETIN
Commonwealth of Pennsylvania • Department of Corrections

TO: Executive Staff Superintendents Regional Directors Boot Camp Commander	Policy Subject: Inmate Disciplinary And Restricted Housing Procedures	
	Policy Number: DC-ADM 801-6	Policy Issue Date: May 20, 1994
	Date of Issue: October 21, 1997	Authority: 

The purpose of this bulletin is to facilitate timely responses from the Chief Hearing Examiner's Office to all appeals to final review.

(1) All appeals to final review should be addressed to the Chief Hearing Examiner.

Chief Hearing Examiner
 1451 S. Market Street
 Elizabethtown, Pa, 17022

Appeals which are addressed to the Commissioner, Chief Counsel, to other Central Office staff, are of course, delivered to these individuals first, then have to be referred to the Chief Hearing Examiner. Improperly addressed appeals may cause a delay in the response at final appeal.

(2) Inmates appealing to final review are responsible for providing the reviewing body with any available paperwork relevant to the appeal. A proper appeal to final review should include photocopies of the Misconduct Report, Hearing Examiner's Report, Inmate Version and Witness Forms (if applicable), Appeal to Program Review Committee, Program Review Committee Response, Appeal to Superintendent and the Superintendent's Response. Appeals without the proper records will reviewed, but the review will be delayed until the appropriate paperwork can be obtained.



BULLETIN
Commonwealth of Pennsylvania • Department of Corrections

TO: Executive Staff Superintendents CCC Regional Directors Boot Camp Commander	Policy Subject: <p align="center">Inmate Disciplinary and Restricted Housing Procedures</p>	
	Bulletin Number: DC-ADM 801-7	
	Policy Issue Date: <p align="center">May 20, 1994</p>	
Date of Issue: <p align="center">August 27, 1998</p>	Authority: <p align="center"><i>Martiny, H</i> Martin F. Horn</p>	Effective Date: <p align="center">September 8, 1998</p>

The purpose of this bulletin is to provide a new definition for the Program Review Committee (PRC).

Program Review Committee (PRC) –

A committee consisting of three (3) staff members that conducts Administrative Custody Hearings, periodic reviews, makes decisions regarding continued confinement in the Restricted Housing Unit (RHU) and/or Special Management Unit (SMU), and hears all first level appeals of misconducts. The committee shall consist of one (1) staff member from each of the following staff classifications:


1. Deputy Superintendent,
2. Inmate Program Manager or Unit Manager, and
3. Commissioned Officer

The Superintendent may designate other staff as committee members. However, if such designations are made, they must be in writing and a list of all designees must be maintained by the Superintendent.

Whenever a PRC is convened, at least one (1) member of the committee must be a staff member who is not directly involved in the administration of the RHU/SMU in which the inmate is currently housed.



BULLETIN
Commonwealth of Pennsylvania • Department of Corrections

TO: Executive Staff Superintendents Boot Camp Commander Regional Directors	Policy Subject: Inmate Disciplinary and Restricted Housing Procedures	
	Policy Number:	DC-ADM 801-8
	Policy Issue Date:	May 20, 1994
Date of Issue: February 22, 1999	Authority:  Michael F. Horn	Effective Date: March 22, 1999

The purpose of this bulletin is to formally approve the use of videoconference technology to conduct DC-ADM 801, Inmate Disciplinary Hearings. The videoconferencing equipment specified for use for videoconferencing with the courts, as well as, the equipment previously identified for "tele-medicine" may be used for this purpose. However, conferences with the court and pre-scheduled tele-medicine conferences are to take priority over misconduct hearings. Procedures specific to misconduct hearing teleconferences are attached. Any questions regarding this matter should be directed to Mr. Bitner, Chief Hearing Examiner or Major Nagy, Chief of Security.

As always your cooperation is appreciated.

PROCEDURES FOR USE OF THE VIDEOCONFERENCE SYSTEM TO CONDUCT MISCONDUCT HEARINGS

In order to ensure inmates with timely hearings on misconduct charges of violations of prison rules, misconduct hearings may be conducted through the use of the videoconference system. Use of the videoconference system for misconduct hearings will be in accordance with the following procedures and consent of the inmate is not required.

1. The institution where the misconduct has occurred will contact the Office of the Chief Hearing Examiner to discuss the scheduling of the hearing.
2. The Chief Hearing Examiner will contact the statewide Videoconference Coordinator and the Videoconference Coordinator at the institution(s) involved to establish a date and time for the hearing to be conducted.
3. The Misconduct Report, Inmate Request for Assistance and Witnesses form, investigation reports, urinalysis reports, medical reports, inmate version or other relevant documents will be sent to the Hearing Examiner via FAX prior to the hearing.
4. The charged inmate and all properly requested assistants and witnesses will be brought to the videoconference room. The use of the Videoconference System to conduct the hearing will be explained to the inmate by the Videoconference Coordinator, or designee.
5. The Videoconference Coordinator, or designee, at the charging institution will call the Hearing Examiner on the Videoconference System when everyone in the Hearing Room is ready for the hearing to begin.
6. The misconduct hearing will be conducted in complete accordance with DC-ADM 801, VI. The Hearing Examiner will again explain the use of the Videoconference System to the charged inmate and advise the inmate that any objection may be raised on appeal of the misconduct.
7. At the conclusion of the hearing, the Hearing Examiner's written fact finding report will be sent to the institution via FAX to be personally delivered to the charged inmate on the same day of the hearing.
8. The inmate may appeal the results of the hearing in accordance with DC-ADM 801, VI, I.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
OFFICE OF CHIEF COUNSEL
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