



**Office of the Secretary**

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October 23, 2019

Arkansas Legislative Council  
 Administrative Rules and Regulations Subcommittee  
*Via Email*

Representative Dan Sullivan, Co-Chair  
 Arkansas Legislative Council  
 Administrative Rules and Regulations Subcommittee  
*Via Email*

Dear Co-Chairs,

Please consider this letter as the Division of Correction’s quarterly report on new and revised administrative directives issued in the previous quarter. Submitted along with this letter are the following administrative directives:

<b>AD #</b>	<b>AD Title</b>	<b>Superseded AD #</b>	<b>Effective Date</b>	<b>Summary</b>	<b>Page #</b>
AD 2019-21	Family Medical Leave Act (FMLA)	AD18-47	7/22/2019	This Administrative Directive (AD) was amended to extend the number of days an employee is allowed to be on sick leave before they are required to submit FMLA paperwork to (5) consecutive working days.	Redline (1-10) Clean (11-20)
AD 2019-22	Employee Orientation and Training	AD19-15	7/22/2019	This Administrative Directive (AD) was amended to clarify the time allowed to employees on Extended Military Leave, Family Medical Leave or Catastrophic Leave to complete their required training hours. Also, employees who have been rehired and worked a total of six months or more are required to meet their annual training requirements.	Redline (21-28) Clean (29-35)
AD 2019-23	Leave Audits	AD13-58	7/22/2019	This Administrative Directive (AD) was updated to reflect that Leave Audits are conducted upon request by the Human Resources Division.	Redline (36-38) Clean (39-40)

AD #	AD Title	Superseded AD #	Effective Date	Summary	Page #
AD 2019-24	Inmate Grievance Procedure	AD14-16	8/1/2019	This Administrative Directive (AD) was amended to update the current inmate grievance process by clarifying the impact of PREA allegations on grievance process and to clarify various definitions.	Redline (41-71) Clean (72-102)
AD 2019-25	Unit Entry Procedures for the Control of Contraband	AD14-44	8/28/2019 & 9/17/2019	This Administrative Directive (AD) was updated to document current practice, which prohibits an employee or visitor from attempting to withdraw from the entry process after the process has begun.  This Administrative Directive (AD) was updated without a number change to include the word "termination" as part of the disciplinary action for staff members that are unable to clear all of security checkpoints.	8/28/19 Redline (103-113) Clean (114-123) & 9/17/19 Redline (230-239) Clean (240-249)
AD 2019-26	Youthful Inmates	AD18-48	9/5/2019	This Administrative Directive (AD) was amended to reflect the limitations on the placement of juveniles in restrictive housing by Act 971 of 2019.	Redline (124-126) Clean (127-129)
AD 2019-27	Punitive Housing/ Restriction	AD18-35	9/5/2019	This Administrative Directive (AD) was amended to reflect the limitations on the placement of juveniles in restrictive housing by Act 971 of 2019.	Redline (130-139) Clean (140-148)
AD 2019-28	Restrictive Housing	AD17-31	9/5/2019	This Administrative Directive (AD) was amended to reflect the limitations on the placement of juveniles in restrictive housing by Act 971 of 2019.	Redline (149-164) Clean (165-179)
AD 2019-29	Movement and Restraint of Pregnant Women	AD13-60	9/9/2019	This Administrative Directive (AD) was amended to reflect the requirements in Act 566 of 2019 related to the application of restraints on pregnant and post-partum inmates.	Redline (180-183) Clean (184-187)
AD 2019-30	Inmate Death	AD18-27	9/11/2019	This Administrative Directive (AD) was amended to clarify with the Division of Correction's current procedure related to the disposition of an inmate's remains following their death.	Redline (188-196) Clean (197-203)

AD #	AD Title	Superseded AD #	Effective Date	Summary	Page #
AD 2019-31	Pregnant Inmates/Prenatal Care/Breast Pumping	AD13-51	9/16/2019	This Administrative Directive (AD) was amended to address the Division of Correction's new Breast Pumping Program for new inmate mothers; in addition to the prenatal care available to pregnant inmates	Redline (204-217) Clean (218-229)

There were no new or revised administrative memoranda issued during the previous quarter. Please do not hesitate to contact me with any questions or comments.

Sincerely,



Solomon Graves  
Chief of Staff  
Arkansas Department of Corrections

CC: Ms. Wendy Kelley, Secretary, Department of Corrections  
Mr. Dexter Payne, Director, Division of Correction  
Ms. Christine Cryer, Chief Legal Counsel, Department of Corrections  
Mr. Benny Magness, Chairman, Board of Corrections  
File



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Family Medical Leave Act

**NUMBER:** ~~18-47~~, 19-xx

**SUPERSEDES:** ~~16-33~~, 18-47

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**APPLICABILITY:** All Employees

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**REFERENCE:** Family Medical Leave Act of 1993; **PAGE:** 1 of 9  
GPD 8; National Defense  
Authorization Act of 2008; and OPM Policy

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**APPROVED:** Original Signed by ~~Wendy Kelley~~

**EFFECTIVE DATE:** ~~11/16/2018~~

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### I. POLICY:

It shall be the policy of the Arkansas Department of Correction (ADC) (hereinafter ADC is also referred to as Agency) to provide guidelines for the administration of job-protected leave taken under the Family and Medical Leave Act (FMLA) of 1993 as amended by the National Defense Authorization Act (NDAA) of 2008.

### II. PURPOSE:

The federal Family and Medical Leave Act (FMLA) of 1993 requires all public agencies to provide up to twelve (12) weeks of unpaid, job-protected leave per calendar year to "eligible" employees for certain family and medical reasons or any qualifying need arising out of the fact that the spouse, child or parent of the employee is on active duty (or has been notified of an impending call or order to

active duty) in the Armed Forces in support of a contingency operation. The NDAA has also expanded FMLA to provide up to twenty-six (26) weeks of leave per calendar year to care for an injured military service member. -All employees are eligible if they have worked within state government for at least one (1) year (cumulative), and have at least 1,250 hours of service for the employer during the twelve month period preceding the commencement of the leave.

Spouses who are both employed by the state are entitled to a total of twelve weeks of leave (rather than twelve weeks each) for the birth or adoption of a child, or for care of a sick parent. -However, each spouse would be entitled to twelve (12) weeks for their own serious health condition or the care of a child or spouse.

Each employee is entitled to FMLA for the care of his/her parent only.

Nevertheless, the marital couple is limited to a combined twelve (12) weeks for this purpose regardless of which parent, or the number of parents, involved.

### III. DEFINITIONS:

A. Serious Health Condition means an illness, injury, impairment or physical or mental condition that involves:

1. Inpatient care: Any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical care facility.
2. Continuing treatment by a health care provider: Any period of incapacity of more than ~~five~~ <sup>three</sup> (3) consecutive ~~calendar~~ working days that also involves continuing treatment as follows:
  - a. Treatment two (2) or more times by a health care provider; by a nurse or physician's assistant under direct supervision of a health care provider; or a provider of health care services (e.g., physical therapist) under orders of, or on referral by a health care provider.
  - b. Treatment by a health care provider on at least one (1) occasion which results in a regimen of continuing treatment under supervision of a health care provider. A regimen of continuing treatment includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. It does not include taking of over-the-counter medications or other similar activities that can be initiated without a visit to a health care provider.
3. Any period of incapacity due to pregnancy or for prenatal care.

4. Treatment for a chronic health condition that requires: periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider; continues over an extended period of time (including recurring episodes of a single underlying condition; or may cause episodic rather than a continuing period of incapacity (eg., asthma, diabetes, epilepsy, etc.).
4. A period of incapacity, which is permanent or long-term, due to a condition for which the treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by a health care provider. Examples include: Alzheimer's disease, severe stroke or the terminal stages of a disease.
6. Multiple treatments for non-chronic conditions, and any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by a health care provider, either for restorative surgery after an accident or other injury, or for a condition such as cancer, severe arthritis, or kidney disease that would likely result in a period of incapacity of more than ~~five~~ <sup>three</sup> (35) consecutive ~~calendar~~ <sup>working</sup> days in the absence of medical intervention or treatment.
7. Continuing supervision of, but not necessarily active treatment by a health care provider due to a serious long-term or chronic condition or disability, and which cannot be cured.

NOTE: FMLA only allows leave for substance abuse in order to undergo treatment by a health care provider and specifically excludes employee absence because of the use of the substance. Stress qualifies as a serious health condition only if it rises to the level of a mental illness or results in a physical illness.

- B. Period of Incapacity means a period of time when an employee or family member is unable to work, attend school, or perform other regular daily activities due to the serious health condition, treatment thereof, or recovery therefrom.
- C. Treatment for purposes of FMLA, includes examinations to determine if a serious health condition exists and evaluations of the condition, but does not include routine physical examinations, eye examinations, or dental examinations.

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- D. Group Health Plan is a plan (including a self-insured plan) of, or contributed to by an employer (including a self-employed person) or employee organization to provide health care directly or otherwise to employees, former employees, the employer, or others associated or formerly associated with the employer in a business relationship, or their families.
- ~~D~~E. Health Care Provider is defined as a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices or any other person determined by the United States Department of Labor to be capable of providing health care services. Included in the second part of that definition are Podiatrists, Dentists, Clinical Psychologists, Clinical Social Workers, Optometrists, and Chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated to exist by x-ray), Nurse Practitioners and Nurse-Midwives and Christian Science Practitioners.
- F. Spouse is determined by applicable state law and U.S. Supreme Court decisions.
- G. Parent means the biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a child. This term does not include parents "in law."
- H. Son or Daughter means a biological, adopted, foster child, stepchild, legal ward or a child of a person standing in loco parentis.
1. Under eighteen (18) years of age; or
  2. Eighteen (18) years of age or older and incapable of self-care because of mental or physical disability at the time FMLA is to commence.
- I. In Loco Parentis: -Those with day-to-day responsibilities to care for or financially support a child. -Employees who have no biological or legal relationship with a child may, nonetheless, stand in loco parentis to the child and be entitled to FMLA leave. -Similarly, an employee may take leave to care for someone who, although having no legal biological relationship to the employee when the employee was a child, stood in loco parentis to the employee when the employee was a child, even if they have no legal or biological relationship.
- J. Next of Kin under the amendment made by the NDAA means the nearest blood relative of the injured service member.
- K. Qualifying Exigency Leave apply to family members of National Guard and Reserve members so that they may manage their affairs while the

member is on active duty in support of a contingency operation. -The categories that are considered qualifying exigencies are short-notice deployment; military events and related activities; childcare and school activities; financial and legal arrangements; counseling; rest and recuperation; post-deployment activities; and additional activities not encompassed in the other categories, but agreed to by the employer and employee.

- L. Military Caregiver Leave is for eligible employees who are the spouse, parent, child, or next of kin of a service member who incurred a serious injury or illness on active duty in the Armed Forces and may take up to 26 weeks of leave in a calendar year to care for the injured service member. Military Caregiver Leave is used in combination with regular FMLA leave.

#### IV. **PROCEDURES:**

- A. Unpaid FMLA leave must be granted for any of the following reasons:
1. To care for the employee's child after birth, or placement for adoption or foster care;
  2. To care for the employee's spouse, son, or daughter (under age eighteen (18), or if eighteen (18) or older, incapable of self-care due to a mental or physical disability as defined by the Americans with Disabilities Act), or a parent who has a serious health condition;
  3. For a serious health condition that makes the employee unable to perform the employee's job;
  4. To care for the employee's spouse, child (over the age of eighteen (18), parent, or next of kin who was injured on active duty; or
  5. For the qualifying need when an employee's spouse, child (over the age of eighteen (18), or parent is called to or on active duty.
- B. Under ADC policy, an employee must use accrued paid leave in place of unpaid leave. An employee may take FMLA on a full time or intermittent basis, or work a reduced leave schedule.
- C. An employee is required to provide the employer with at least thirty (30) days advance notice before FMLA leave is to begin if the need for leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for an employee's or family member's serious health condition. -If thirty (30) day's notice is not practicable,



notice must be given as soon as possible. It is expected that an employee will give notice within no less than one (1) or two (2) working days of learning of the need for leave.

- D. An employee will provide at least verbal notice sufficient to make the supervisor aware of the need for FMLA leave, and the anticipated timing and duration of the leave. The employee must follow ADC policy regarding call-in procedures for reporting any absence, absent unusual circumstances. A leave slip should also be completed including this information.
- E. The Unit Human Resources Manager will provide a packet of information and forms for employees requesting FMLA leave. If verbal notice is given by the employee, his or her supervisor or Unit HR Manager may complete the ADC Family and Medical Leave Request (see FMLA forms); however, the employee is required to provide medical certification to support the request for leave. -When this is not possible, the employee must provide the certification to the employer within the period requested by the employer (at least fifteen (15) calendar days after employer notification). Additional certification may be required if the employee is unable to return to work from leave at the end of the original requested period. FMLA leave may be denied or delayed if the medical certification requirements are not met.
- F. If the agency has reason to believe an employee's leave may be FMLA qualifying, the employee will be provided with the FMLA packet promptly. An absence of more than ~~three~~ **five (5)** consecutive **work** days that involves continuing treatment by a health care provider may be considered sufficient "reason to believe."
- G. The Supervisor must notify the Unit HR Manager that an employee has been out of work for four days, the HR Manager will abide by the following procedure:
1. FMLA papers will be mailed to the employee via certified mail.
  2. Along with the FMLA papers, the HR Manager will advise the employee of the fifteen (15) calendar day timeframe from the date information was mailed to return the completed FMLA paperwork.
  3. If at the depletion of the fifteen (15) days, the FMLA paperwork has not been returned, the FMLA may be denied or delayed if the medical certification requirements are not met.
  4. If an employee submits medical certification that is incomplete or insufficient, the Central HR will specify in writing what

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information is lacking, and give the employee seven calendar days to cure the deficiency.

5. Upon completion of the twelve (12) week period (twenty-six (26) weeks in the event the employee is caring for an injured military service member), if the employee is unable to return to work, perform the essential functions of their position and has depleted all of their accrued leave, the employee will be terminated.
6. If at the end of the twelve (12) weeks (twenty-six (26) weeks in the event the employee is caring for an injured military service member), the employee still has leave balances, the employee will be permitted to deplete their accrued leave balances prior to being terminated.
7. If an employee has been on FMLA leave due to his/her own health condition, the employee shall provide an essential job function questionnaire completed by their health care provider certifying their fitness for full duty or a release form without restrictions signed by their health care provider prior to the employees return to work. The department may require security staff to submit to a physical assessment once the employee has returned to work.
8. If a physician determines that an employee is unable to perform one of the essential functions of their current job due to a permanent disability, the Human Resources Administrator should be notified and the procedures stipulated in the Administrative Directive on ADA should be followed.

**NOTE:** Employees receiving Catastrophic Leave and/or Workers' Compensation benefits may be qualified for FMLA Leave up to twelve (12) weeks. -These awards will run concurrently if eligibility requirements are met.

- H. If the agency does not learn of the reason for an employee's absence until the employee's return (usually a brief period of absence), the employer will provide the FMLA packet promptly; in this case, the employee must notify his or her supervisor within two business days of returning to work of the reason for the leave. In the absence of such timely notification by the employee, the leave may not qualify for FMLA leave.

Under FMLA, job benefits and protection include:

1. For the duration of FMLA leave, ADC will maintain the employee's health insurance coverage under any "group health

plan,” under the conditions that the coverage would have been provided if the employee had continued to work (matching portion paid by ADC while employee continues to pay his/her portion).

2. Upon return from FMLA leave, most employees should be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
3. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of the employee’s leave.
4. Employee’s participation in the Performance, Goals, Compensation System (PGCS) must meet all criteria regardless of being absent from work because of medical leave.

I. Confidentiality

Medical information as a result of a serious health condition is considered confidential. If an employee submits a complete certification signed by a health care provider, the employee’s supervisor may not request additional information from the employee’s health care provider. However, a Human Resources professional, another health care provider or a management official may contact the employee’s health care provider for purposes of clarification and authenticity of the medical certificate.

J. Second Medical Certification

If there is reason to doubt the validity of a medical certification, the employer may require a second opinion from a health care provider designed or approved by the employer so long as that provider is not employed by the state on a regular basis.

K. Recertification

The employer may request the employee to provide a recertification no more than every 30 days and only in connection with an absence by the employee. If a certification indicates that the minimum duration of the serious health condition is more than 30 days, the employer must generally wait until that minimum duration expires before requesting recertification. However, in all cases, including cases where the condition is of an indefinite duration, the employer may request a recertification for absences every six months.

The employer may request a recertification in less than 30 days only if:

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1. The employee requests an extension of leave;
2. The circumstances described by the previous certification have changed significantly, or;
3. The employer receives information that causes it to doubt the employee's stated reasons for the absence or the continuing validity of the existing medical certification.

L. **OTHER LAWS AND EMPLOYER PRACTICES ON ~~FMLA~~  
~~EMPLOYEE~~FMLA EMPLOYEE RIGHTS**

A. State Law

Nothing in FMLA supersedes any provision of state law that provides greater family or medical leave rights than those provided by FMLA. For example, State of Arkansas employees who take maternity leave have the option to reserve annual and sick leave balances when on FMLA leave. -Even though the employer would normally require employees to use their leave balances during FMLA leave, state law, with regard to maternity leave, extends certain exceptions.

B. Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA)

An employer's obligation under FMLA ceases and a COBRA qualifying event may occur when, and if:

1. The employment relationship would have terminated if the employee had not taken FMLA (i.e. his/her position eliminated due to Reduction In Force and no transfer is available)
2. An employee informs the employer of his or her intent not to return from leave (which may be before the leave starts), or the employee fails to return from leave after exhausting his or her FMLA entitlement.

C. Employee Retirement Security Act (ERISA)

There is no requirement that unpaid FMLA leave be counted as additional service for eligibility, vesting, or benefit accrual purposes. However, the final regulations clarify that if a plan requires an employee to be employed on a specific date in order to be credited with a year of service for participation, vesting, or contribution purposes, an employee on FMLA leave is deemed to have been employed on that date. -Previously, employees were required to return to work in order to receive the year of service. If an employee has a question about their years of service they should contact APERS.

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#### D. Posting Requirements

All state agencies and institutions are required to post and keep posted on its premises, in conspicuous places where employees are employed, a notice explaining the Act's provision and providing information concerning the procedures for filing complaints of violations of the Act with the Wage and Hour Division of the Department of Labor. The notice must be posted prominently where it can be readily seen by employees and applicants for employment. Agencies and institutions may duplicate the text of the notice contained in "YOUR RIGHTS FORM", or copies of the required notice may be obtained from local offices of the Wage and Hour Division.



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Family Medical Leave Act

**NUMBER:** 19-21

**SUPERSEDES:** 18-47

**APPLICABILITY:** All Employees

**REFERENCE:** Family Medical Leave Act of 1993;  
GPD 8; National Defense  
Authorization Act of 2008; and OPM Policy

**PAGE:** 1 of 10

**APPROVED:** Original Signed by Wendy Kelley

**EFFECTIVE DATE:** 7/22/2019

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### I. POLICY:

It shall be the policy of the Arkansas Department of Correction (ADC) (hereinafter ADC is also referred to as Agency) to provide guidelines for the administration of job-protected leave taken under the Family and Medical Leave Act (FMLA) of 1993 as amended by the National Defense Authorization Act (NDAA) of 2008.

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The federal Family and Medical Leave Act (FMLA) of 1993 requires all public agencies to provide up to twelve (12) weeks of unpaid, job-protected leave per calendar year to “eligible” employees for certain family and medical reasons or any qualifying need arising out of the fact that the spouse, child or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation. The

NDAA has also expanded FMLA to provide up to twenty-six (26) weeks of leave per calendar year to care for an injured military service member. All employees are eligible if they have worked within state government for at least one (1) year (cumulative), and have at least 1,250 hours of service for the employer during the twelve month period preceding the commencement of the leave.

Spouses who are both employed by the state are entitled to a total of twelve weeks of leave (rather than twelve weeks each) for the birth or adoption of a child, or for care of a sick parent. However, each spouse would be entitled to twelve (12) weeks for their own serious health condition or the care of a child or spouse. Each employee is entitled to FMLA for the care of his/her parent only. Nevertheless, the marital couple is limited to a combined twelve (12) weeks for this purpose regardless of which parent, or the number of parents, involved.

### **III. DEFINITIONS:**

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1. Inpatient care: Any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical care facility.
  2. Continuing treatment by a health care provider: Any period of incapacity of more than five (5) consecutive working days that also involves continuing treatment as follows:
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    - b. Treatment by a health care provider on at least one (1) occasion which results in a regimen of continuing treatment under supervision of a health care provider. A regimen of continuing treatment includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. It does not include taking of over-the-counter medications or other similar activities that can be initiated without a visit to a health care provider.
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5. A period of incapacity, which is permanent or long-term, due to a condition for which the treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by a health care provider. Examples include: Alzheimer's disease, severe stroke or the terminal stages of a disease.
6. Multiple treatments for non-chronic conditions, and any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by a health care provider, either for restorative surgery after an accident or other injury, or for a condition such as cancer, severe arthritis, or kidney disease that would likely result in a period of incapacity of more than five (5) consecutive working days in the absence of medical intervention or treatment.
7. Continuing supervision of, but not necessarily active treatment by a health care provider due to a serious long-term or chronic condition or disability, and which cannot be cured.

NOTE: FMLA only allows leave for substance abuse in order to undergo treatment by a health care provider and specifically excludes employee absence because of the use of the substance. Stress qualifies as a serious health condition only if it rises to the level of a mental illness or results in a physical illness.

- B. Period of Incapacity means a period of time when an employee or family member is unable to work, attend school, or perform other regular daily activities due to the serious health condition, treatment thereof, or recovery therefrom.
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employees, former employees, the employer, or others associated or formerly associated with the employer in a business relationship, or their families.

- E. Health Care Provider is defined as a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices or any other person determined by the United States Department of Labor to be capable of providing health care services. Included in the second part of that definition are Podiatrists, Dentists, Clinical Psychologists, Clinical Social Workers, Optometrists, and Chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated to exist by x-ray), Nurse Practitioners and Nurse-Midwives and Christian Science Practitioners.
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- H. Son or Daughter means a biological, adopted, foster child, stepchild, legal ward or a child of a person standing in loco parentis.
1. Under eighteen (18) years of age; or
  2. Eighteen (18) years of age or older and incapable of self-care because of mental or physical disability at the time FMLA is to commence.
- I. In Loco Parentis: Those with day-to-day responsibilities to care for or financially support a child. Employees who have no biological or legal relationship with a child may, nonetheless, stand in loco parentis to the child and be entitled to FMLA leave. Similarly, an employee may take leave to care for someone who, although having no legal biological relationship to the employee when the employee was a child, stood in loco parentis to the employee when the employee was a child, even if they have no legal or biological relationship.
- J. Next of Kin under the amendment made by the NDAA means the nearest blood relative of the injured service member.
- K. Qualifying Exigency Leave apply to family members of National Guard and Reserve members so that they may manage their affairs while the member is on active duty in support of a contingency operation. The categories that are considered qualifying exigencies are short-notice deployment; military events and related activities; childcare and school

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#### IV. **PROCEDURES:**

- A. Unpaid FMLA leave must be granted for any of the following reasons:
1. To care for the employee's child after birth, or placement for adoption or foster care;
  2. To care for the employee's spouse, son, or daughter (under age eighteen (18), or if eighteen (18) or older, incapable of self-care due to a mental or physical disability as defined by the Americans with Disabilities Act), or a parent who has a serious health condition;
  3. For a serious health condition that makes the employee unable to perform the employee's job;
  4. To care for the employee's spouse, child (over the age of eighteen (18), parent, or next of kin who was injured on active duty; or
  5. For the qualifying need when an employee's spouse, child (over the age of eighteen (18), or parent is called to or on active duty.
- B. Under ADC policy, an employee must use accrued paid leave in place of unpaid leave. An employee may take FMLA on a full time or intermittent basis, or work a reduced leave schedule.
- C. An employee is required to provide the employer with at least thirty (30) days advance notice before FMLA leave is to begin if the need for leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for an employee's or family member's serious health condition. If thirty (30) day's notice is not practicable, notice must be given as soon as possible. It is expected that an employee will give notice within no less than one (1) or two (2) working days of learning of the need for leave.

- D. An employee will provide at least verbal notice sufficient to make the supervisor aware of the need for FMLA leave, and the anticipated timing and duration of the leave. The employee must follow ADC policy regarding call-in procedures for reporting any absence, absent unusual circumstances. A leave slip should also be completed including this information.
- E. The Unit Human Resources Manager will provide a packet of information and forms for employees requesting FMLA leave. If verbal notice is given by the employee, his or her supervisor or Unit HR Manager may complete the ADC Family and Medical Leave Request (see FMLA forms); however, the employee is required to provide medical certification to support the request for leave. When this is not possible, the employee must provide the certification to the employer within the period requested by the employer (at least fifteen (15) calendar days after employer notification). Additional certification may be required if the employee is unable to return to work from leave at the end of the original requested period. FMLA leave may be denied or delayed if the medical certification requirements are not met.
- F. If the agency has reason to believe an employee's leave may be FMLA qualifying, the employee will be provided with the FMLA packet promptly. An absence of more than five (5) consecutive work days that involves continuing treatment by a health care provider may be considered sufficient "reason to believe."
- G. The Supervisor must notify the Unit HR Manager that an employee has been out of work for four days, the HR Manager will abide by the following procedure:
1. FMLA papers will be mailed to the employee via certified mail.
  2. Along with the FMLA papers, the HR Manager will advise the employee of the fifteen (15) calendar day timeframe from the date information was mailed to return the completed FMLA paperwork.
  3. If at the depletion of the fifteen (15) days, the FMLA paperwork has not been returned, the FMLA may be denied or delayed if the medical certification requirements are not met.
  4. If an employee submits medical certification that is incomplete or insufficient, the Central HR will specify in writing what information is lacking, and give the employee seven calendar days to cure the deficiency.

5. Upon completion of the twelve (12) week period (twenty-six (26) weeks in the event the employee is caring for an injured military service member), if the employee is unable to return to work, perform the essential functions of their position and has depleted all of their accrued leave, the employee will be terminated.
6. If at the end of the twelve (12) weeks (twenty-six (26) weeks in the event the employee is caring for an injured military service member), the employee still has leave balances, the employee will be permitted to deplete their accrued leave balances prior to being terminated.
7. If an employee has been on FMLA leave due to his/her own health condition, the employee shall provide an essential job function questionnaire completed by their health care provider certifying their fitness for full duty or a release form without restrictions signed by their health care provider prior to the employees return to work. The department may require security staff to submit to a physical assessment once the employee has returned to work.
8. If a physician determines that an employee is unable to perform one of the essential functions of their current job due to a permanent disability, the Human Resources Administrator should be notified and the procedures stipulated in the Administrative Directive on ADA should be followed.

**NOTE:** Employees receiving Catastrophic Leave and/or Workers' Compensation benefits may be qualified for FMLA Leave up to twelve (12) weeks. These awards will run concurrently if eligibility requirements are met.

- H. If the agency does not learn of the reason for an employee's absence until the employee's return (usually a brief period of absence), the employer will provide the FMLA packet promptly; in this case, the employee must notify his or her supervisor within two business days of returning to work of the reason for the leave. In the absence of such timely notification by the employee, the leave may not qualify for FMLA leave.

Under FMLA, job benefits and protection include:

1. For the duration of FMLA leave, ADC will maintain the employee's health insurance coverage under any "group health plan," under the conditions that the coverage would have been provided if the employee had continued to work (matching portion paid by ADC while employee continues to pay his/her portion).

2. Upon return from FMLA leave, most employees should be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
3. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of the employee's leave.
4. Employee's participation in the Performance, Goals, Compensation System (PGCS) must meet all criteria regardless of being absent from work because of medical leave.

I. Confidentiality

Medical information as a result of a serious health condition is considered confidential. If an employee submits a complete certification signed by a health care provider, the employee's supervisor may not request additional information from the employee's health care provider. However, a Human Resources professional, another health care provider or a management official may contact the employee's health care provider for purposes of clarification and authenticity of the medical certificate.

J. Second Medical Certification

If there is reason to doubt the validity of a medical certification, the employer may require a second opinion from a health care provider designed or approved by the employer so long as that provider is not employed by the state on a regular basis.

K. Recertification

The employer may request the employee to provide a recertification no more than every 30 days and only in connection with an absence by the employee. If a certification indicates that the minimum duration of the serious health condition is more than 30 days, the employer must generally wait until that minimum duration expires before requesting recertification. However, in all cases, including cases where the condition is of an indefinite duration, the employer may request a recertification for absences every six months.

The employer may request a recertification in less than 30 days only if:

1. The employee requests an extension of leave;
2. The circumstances described by the previous certification have changed significantly, or;

3. The employer receives information that causes it to doubt the employee's stated reasons for the absence or the continuing validity of the existing medical certification.

L. **OTHER LAWS AND EMPLOYER PRACTICES ON FMLA  
EMPLOYEE RIGHTS**

A. State Law

Nothing in FMLA supersedes any provision of state law that provides greater family or medical leave rights than those provided by FMLA. For example, State of Arkansas employees who take maternity leave have the option to reserve annual and sick leave balances when on FMLA leave. Even though the employer would normally require employees to use their leave balances during FMLA leave, state law, with regard to maternity leave, extends certain exceptions.

B. Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA)

An employer's obligation under FMLA ceases and a COBRA qualifying event may occur when, and if:

1. The employment relationship would have terminated if the employee had not taken FMLA (i.e. his/her position eliminated due to Reduction In Force and no transfer is available)
2. An employee informs the employer of his or her intent not to return from leave (which may be before the leave starts), or the employee fails to return from leave after exhausting his or her FMLA entitlement.

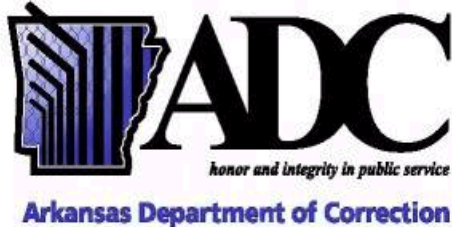
C. Employee Retirement Security Act (ERISA)

There is no requirement that unpaid FMLA leave be counted as additional service for eligibility, vesting, or benefit accrual purposes. However, the final regulations clarify that if a plan requires an employee to be employed on a specific date in order to be credited with a year of service for participation, vesting, or contribution purposes, an employee on FMLA leave is deemed to have been employed on that date. Previously, employees were required to return to work in order to receive the year of service. If an employee has a question about their years of service they should contact APERS.

D. Posting Requirements

All state agencies and institutions are required to post and keep posted on its premises, in conspicuous places where employees are employed, a notice explaining the Act's provision and providing information concerning the procedures for filing complaints of

violations of the Act with the Wage and Hour Division of the Department of Labor. The notice must be posted prominently where it can be readily seen by employees and applicants for employment. Agencies and institutions may duplicate the text of the notice contained in "YOUR RIGHTS FORM", or copies of the required notice may be obtained from local offices of the Wage and Hour Division.



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Employee Orientation and Training

**NUMBER:** ~~19-~~ ~~19-15~~ \_\_\_\_\_ **SUPERSEDES:** ~~19-~~  
~~0719-15~~

**APPLICABILITY:** All Employees

**REFERENCE:** AR-204 Employment **PAGE:** 1 of 7

**APPROVED:** Original signed by Wendy Kelley **EFFECTIVE DATE:** ~~4/11/2019~~

### I. POLICY:

It is the policy of the Arkansas Department of Correction (ADC) to provide initial training for all newly hired employees and on-going annual training for current employees to ensure compliance with all applicable laws, standards, regulations, policies and post orders. Continuing education is a critical requirement of continued employment with the Department to maintain accreditation with the American Correctional Association (ACA) and to provide employees with the knowledge necessary to provide for the safe and humane treatment of inmates while maintaining the safety, security and good order of all its institutions. ~~—~~All management level employees shall be required to participate in supervisory management level classes as a requirement for the position that those individuals hold or for which they may apply.

### II. PURPOSE:

Governor's Executive Order 94-07 ordered the establishment of the State Supervisory Management Institute within the Department of Finance and Administration, Office of Personnel Management (OPM). Approved classes should provide training to management level employees that will teach sound management



practices and principles, while increasing the efficiency of the organization and improve the services provided.

All Department of Correction personnel who are considered management level shall participate in training classes, as required and approved by the Department of Correction and the Office of Personnel Management/State Supervisory Management Institute.

### III. DEFINITIONS:

- A. New Hire: Employees entering state service for the first time.
- B. Rehire: Employees returning to state service after a break in employment of two or more pay periods.
- C. Transfer: Employees transferring between state agencies and/or institutions or laterally within the Department of Correction without a break in service.

### IV. PROCEDURES:

It shall be the policy of the Arkansas Department of Correction (ADC) to provide orientation and training to all newly hired employees, recognized as the Basic Correctional Officer Training for security employees, and Correctional Security for Non-Security Training for non-security employees. ~~Employees who promote or are newly hired and supervise one or more full-time employee(s) shall be required to complete the classes designated for their Management Level~~ Training classification. Principles of this policy are:

- A. Any newly hired security employee must complete the Basic Correctional Officer Training (BCOT) before starting a security position at a unit and/or division. ~~This training shall consist of correctional security training in accordance with ACA and ADC departmental standards.~~
- B. Any rehired or incumbent security employee who has had a break in security service for more than one year, but less than two (2) years, must re-take the BCOT final examination and score 70% or above before being allowed to start a position at a unit and/or division. After a break of more than two (2) years, the rehire or incumbent must complete the entire BCOT training.
- C. Any security employee who is a transfer from another state agency, with or without security experience, must complete the Basic Correctional Officer Training.

- D. Any security new hire from another State Department of Correction must complete the Arkansas Basic Correctional Officer Training.
- E. All new full-time employees must complete a 40-hour orientation program before undertaking their assignments. ~~Non-security employees will complete the Correctional Security for Non-Security class during the first year of employment with a portion of this during orientation. Orientation training requirements are in addition to agency annual requirements (see attachment).~~
- F. Any non-security rehire who has had a break in service for more than one (1) year, but less than two (2) years, must re-take the Correctional Security for Non-Security final examination and score 70% or above within ninety (90) days of their rehire date. ~~After a break of more than two (2) years, the rehire must complete the entire Security for Non-Security training, within (ninety) 90 days of their rehire date.~~
- G. Non-Security employees who work around or supervise inmates may be sent to Basic Correctional Officer Training at the Warden/Administrator's discretion.
- H. Medical/Mental Health professionals (i.e., M.D., Ph.D., and D.D.S.) may be exempted by the Deputy Director of Health & Correctional Programs, except for those classes mandated by Governor's Executive Order 94-07.
- I. Due to enrollment levels and/or other factors, class length of hours may be shorter than listed. Therefore, in gaining certification of any Management Level, the deciding approval factor is not the amount of hours completed, but rather the completion of the course(s) itself.

**V. TRAINING:**

ADC will ensure that all new employees/volunteers will receive the ACA/ADC mandatory training requirements. Each year following, the employee will be responsible for obtaining their required yearly ACA/ADC mandatory training within the calendar year (January 1<sup>st</sup> through December 31<sup>st</sup>). All employees shall have half of their training completed by June 30<sup>th</sup> and the remaining half by December 31<sup>st</sup>.

Training will be based on ACA/ADC Standards (See Attachment 1). ~~ALL SECURITY STAFF ARE REQUIRED TO OBTAIN 40 TRAINING HOURS ANNUALLY. All Non-Security Employees who supervise one or more employees or have daily contact with inmates are required to obtain 40 or more training hours annually. All Non-Security Employees who do not supervise other employees and only have minimal contact with inmates will only be required to obtain a minimum of 16 training hours annually. Off-site training and conference training must be~~

approved in advance in accordance with ADC policy. Thirty (30) hours is the maximum amount of e-Learning and/or e-CADEMY training hours that will be approved to meet the ACA/ADC Mandatory Training Requirements. -Failure to complete job related training will result in disciplinary action being taken in accordance with Employee Conduct Standards.

~~Employees on Extended Military Leave, Family Medical Leave or Catastrophic Leave during their performance evaluation period will have the equal amount of time that they are on leave not to exceed six months to complete the ACA/ ADC Mandated training upon their return.~~

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~~Employees who were ~~out~~ on Extended Military Leave, Family Medical Leave, or Catastrophic Leave during ~~at~~ the calendar year will have additional time equal to the time missed (not to exceed six months) to complete their required training. -The training that is completed and extended to the next calendar year will not count towards the new year. -The training requirements would start over.~~

~~A person that is rehired and works a total of ~~for~~ six months or more within ~~the~~ calendar year ~~or longer during the calendar year~~, must complete ~~all~~ the required training. -A person that is ~~if~~ rehired and works less than six months within that calendar year, ~~the employee~~ must begin obtaining the required training the beginning of the next calendar year.~~

Central Human Resources management will review this policy annually to ensure it is current.

## VI. REFERENCES:

Adult Correctional Institutions ACA Standards  
Governor's Executive Order 94-07  
Administrative Directive on Emergency Preparedness  
Office of Personnel Management, Interagency Training Program  
Administrative Regulation on Employee Conduct Standards (AR 225)  
Administrative Directive on Employee Conduct Standards

Attachment 1

**Required ACA/ADC Training for Security Personnel**

- **Ethics/Conduct Standards**
- **Firearms Qualification**
- **CPR/CPR Refresher (Sgt & Above) (every 2 yrs.)**
- **Suicide Prevention/Intervention**
- **Supervising IM & IM Rights & Responsibilities**
- **Use of Force Refresher**
- **Use of Restraints**
- **Emergency Preparedness**
- **Fire Safety**
- **Chemical Safety/Chemical Right to Know**
- **Sexual Abuse/Assault (PREA)**
- **Sexual Harassment**
- **Sexual Misconduct**

**Required ACA/ADC Training for Non-Security Personnel**

- **Emergency Preparedness**
- **Chemical Safety/Chemical Right to Know**
- **Fire Safety**
- **Sexual Abuse/Assault (PREA)/ Sexual Misconduct**
- **Sexual Harassment**
- **Ethics/Conduct Standards**

**Management Level Training**

- **Level I training for Security (Sergeant and Food Preparation Manager) or Non-Security Grades GS5/6, IT03, MP04 and higher who supervise one or more employees shall consist of the following classes:**

- Administering Discipline
- Hiring Talent
- \*CPR/First Aid/AED
- Fair Labor Standards Act
- Grievance Prevention and Handling
- HRkansas
- Interpersonal Communications
- Introduction to Management
- Performance Evaluation

\*CPR/First Aid/AED is required for security personnel and must be completed at the unit of assignment prior to attending the Management Level I class. CPR/First Aid/AED is not required for non-security staff.

- **Level II training is designed for staffs that are grades GS7, IT03, MP04 and higher that supervise one or more staff members. Management Level I training is required prior to attending. This training shall consist of the following:**
  - Ethics in Leadership
  - Management Effectiveness
  - PREA Investigations
  - Rethinking Retention
  - Solutions for Health Care in a Correctional Environment
- **Level III training is designed for staff that are grades GS8/9, IT05, MP04 and higher that supervise one or more staff members. Management Level I and Level II training are required prior to attending. This training shall consist of Advance Management Training.**
- **Level IV training is designed for staff that are grades GS10, IT05, MP04 and higher that supervise one or more staff members. Management Level I, Level II, and Level III training are required prior to attending. This training shall consist of Executive Training.**

\*The Department of Correction, with the approval of OPM/State Supervisory Management Institute may make changes in the mandatory classes/training, as needed, to address the operational needs of the Department.

**National Incident Management Systems (NIMS) Training**

- **In coordination with the Secretary of Department of Homeland Security, the Attorney General, and other appropriate Federal departments and agencies and in consultation with State and local governments, shall establish and maintain a comprehensive training program to meet the national preparedness goal. The program will identify standards and maximize the effectiveness of existing Federal programs and financial assistance and include training for the Nation's first responders, officials, and others with major event preparedness, prevention, response, and recovery roles.**

**Attachment 2**

ADC /NIMS Training Matrix

<p><b>Entry Level Employees:</b></p> <ul style="list-style-type: none"> <li>• Non-Security Personnel</li> <li>• BCOT Cadets</li> </ul>	<p><b>Required Training:</b></p> <ul style="list-style-type: none"> <li>• ICS 100, Introduction</li> <li>• IS-700, NIMS, an Introduction</li> <li>• Emergency Preparedness</li> </ul>	<p><b>Training Location:</b> Training Academy: Security for Non-Security and BCOT</p>
<p><b>First Line Supervisor:</b></p> <ul style="list-style-type: none"> <li>• Sgt and above</li> <li>• Lt and above (security)</li> <li>• Supervisor and above (non-security)</li> </ul>	<p>All of the above plus:</p> <ul style="list-style-type: none"> <li>• ICS 200, Basic ICS</li> </ul>	<p>Unit Level FEMA Website <a href="http://training.fema.gov">http://training.fema.gov</a></p>

<p><b>Middle Management:</b></p> <ul style="list-style-type: none"> <li>Deputy Wardens, Wardens, Chiefs of Security, and EP Coordinators , ERT Leaders, and Upper level Supervisors</li> </ul>	<p>All of the above plus:</p> <ul style="list-style-type: none"> <li>ICS 300, Intermediate</li> <li>ICS-400 Advanced</li> <li>IS 800, National Response Plan</li> </ul>	<p>ADEM Class, FEMA Website  <a href="http://training.fema.gov">http://training.fema.gov</a></p>
<p><b>Command and general staff:</b>                  Department Heads (Management Team and Administrators, Directors, Public Information, Dept. Heads, and persons assigned to the EOC)</p>	<p>All of the above</p>	<p>ADEM Class, FEMA Website  <a href="http://training.fema.gov">http://training.fema.gov</a></p>



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Employee Orientation and Training

**NUMBER:** 19-22

**SUPERSEDES:** 19-15

**APPLICABILITY:** All Employees

**REFERENCE:** AR-204 Employment

**PAGE:** 1 of 7

**APPROVED:** Original signed by Wendy Kelley

**EFFECTIVE DATE:** 7/22/2019

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### I. POLICY:

It is the policy of the Arkansas Department of Correction (ADC) to provide initial training for all newly hired employees and on-going annual training for current employees to ensure compliance with all applicable laws, standards, regulations, policies and post orders. Continuing education is a critical requirement of continued employment with the Department to maintain accreditation with the American Correctional Association (ACA) and to provide employees with the knowledge necessary to provide for the safe and humane treatment of inmates while maintaining the safety, security and good order of all its institutions. All management level employees shall be required to participate in supervisory management level classes as a requirement for the position that those individuals hold or for which they may apply.

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All Department of Correction personnel who are considered management level shall participate in training classes, as required and approved by the Department of Correction and the Office of Personnel Management/State Supervisory Management Institute.

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- A. New Hire: Employees entering state service for the first time.
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  - **HRkansas**
  - **Interpersonal Communications**
  - **Introduction to Management**
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**Attachment 2**

## ADC /NIMS Training Matrix

<p><b>Entry Level Employees:</b></p> <ul style="list-style-type: none"> <li>• Non-Security Personnel</li> <li>• BCOT Cadets</li> </ul>	<p><b>Required Training:</b></p> <ul style="list-style-type: none"> <li>• ICS 100, Introduction</li> <li>• IS-700, NIMS, an Introduction</li> <li>• Emergency Preparedness</li> </ul>	<p><b>Training Location:</b> Training Academy: Security for Non-Security and BCOT</p>
<p><b>First Line Supervisor:</b></p> <ul style="list-style-type: none"> <li>• Sgt and above</li> <li>• Lt and above (security)</li> <li>• Supervisor and above (non-security)</li> </ul>	<p>All of the above plus:</p> <ul style="list-style-type: none"> <li>• ICS 200, Basic ICS</li> </ul>	<p>Unit Level FEMA Website <a href="http://training.fema.gov">http://training.fema.gov</a></p>
<p><b>Middle Management:</b></p> <ul style="list-style-type: none"> <li>• Deputy Wardens, Wardens, Chiefs of Security, and EP Coordinators , ERT Leaders, and Upper level Supervisors</li> </ul>	<p>All of the above plus:</p> <ul style="list-style-type: none"> <li>• ICS 300, Intermediate</li> <li>• ICS-400 Advanced</li> <li>• IS 800, National Response Plan</li> </ul>	<p>ADEM Class, FEMA Website <a href="http://training.fema.gov">http://training.fema.gov</a></p>
<p><b>Command and general staff:</b> Department Heads (Management Team and Administrators, Directors, Public Information, Dept. Heads, and persons assigned to the EOC)</p>	<p>All of the above</p>	<p>ADEM Class, FEMA Website <a href="http://training.fema.gov">http://training.fema.gov</a></p>



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** ~~Attendance &~~ Leave Audits

**NUMBER:** ~~13-589-~~

**SUPERSEDES:** ~~03-1013-58~~

**APPLICABILITY:** All Human Resource Offices

**REFERENCE:** AR 204 - Employment PAGE 1 of ~~2~~3

**APPROVED:** Original signed by ~~Ray Hobbs~~ \_\_\_\_\_ **EFFECTIVE**

**DATE:** ~~11/22/2013~~

### I. **POLICY:**

It is the policy of the Department of Correction to operate all Human Resource Offices within established OPM guidelines.

### II. **EXPLANATIONPURPOSE:**

The ADC ~~Attendance and~~ Leave Audit Process is established to ensure adherence to laws, rules, policies and procedures that govern attendance and leave. -The audit process is designed to assist Unit Human Resource Managers in the application of related rules, policies and procedures and to help identify where additional training or assistance may be needed.

### III. **PROCEDURES:**

Leave audits will be scheduled ~~generally over a one-year period. During this time frame, the ADC Attendance and Leave Auditors, which will be selected and coordinated by the Human Resource Administrator, will audit a random sample of records from an ADC Unit to ensure compliance. Since only a sample of each unit's records is examined, it is imperative that the Unit HR Manager audit all records to ensure that any additional errors are found and corrected, on an as~~

needed basis to ensure compliance with policies and procedures that govern leave. The Employee, Supervisor, Administrator/Warden may submit a request for a leave audit to Central Human Resource.

A. Role of the Unit Human Resource Manager

The Unit HR Manager is responsible for overseeing the day-to-day operations of the human resource office at the unit. -This includes assuring that established policy is adhered to as well as communicated to all unit personnel.

~~The role of the HR Manager as it relates to the audit process is preparing the audit, assisting the auditors during the audit and making corrections to the leave records.~~

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~~In preparation for the audit, the HR Manager should do the following:~~

- ~~—— Review and/or correct all records prior to the audit~~
- ~~—— Ensure attendance and leave documents are in order and accessible to the auditors~~
- ~~—— Have a copy of the time and leave files available~~
- ~~—— Have a work space available for the auditors~~

~~During the audit, the HR Manager should do the following:~~

- ~~—— Be accessible while the audit is being conducted~~
- ~~—— Make necessary corrections to leave documents during or immediately following the audit~~
- ~~—— Ask or answer questions regarding the leave documents~~
- ~~—— Seek clarification of rules, policies and procedures, as necessary~~

B. Responsibilities of the Warden

As the Warden of a Unit and supervisor of the Unit Human Resource Manager, it is the responsibility of the Warden to ensure that the overall operation of the Unit Human Resource Office is consistent and within the mandate of established policy and procedure. -The Warden should ensure that their HR staff is properly trained and possess the skills and abilities necessary to sufficiently operate the HR office.

~~Upon notification from the audit team of any discrepancies as they relate to proper functioning of the HR office, the Warden should implement the necessary steps to rectify these problems by obtaining the necessary training for the applicable staff, outlining new procedures or disciplining~~



~~(up to and including termination) of any staff for acute non-compliance in the HR office.~~

C. Internal Audit Procedures

Leave audits should always contain the records for the entire leave year up to and including the most current leave numbers available.

The audit may include but not be limited to the following areas:

Personnel Files  
Time & Leave Accounting Files  
Training Files  
Overall Process of HR Office

D. Completion of Audit

Upon completion of the audit, ~~the audit team will do~~ an oral assessment of the findings with the Warden, HR Manager and any other applicable staff. Once the formal audit has been completed, the auditors will provide the HR Manager with an audit report.

The Warden and the HR Manager should mutually agree on a date by which all corrections to all records (examined and not examined) are to be made. -Upon this date, the HR Manager should provide the Warden with verification that all appropriate corrections were made.

Once the written audit report has been completed a copy will be sent to the Warden, Human Resource Administrator and Unit HR Manager. -In cases where the records are severely out of compliance, a copy of the audit report will be sent to the appropriate Assistant/Deputy Director.

~~IV. STANDARDS~~

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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Leave Audits

**NUMBER:** 19-23

**SUPERSEDES:** 13-58

**APPLICABILITY:** All Human Resource Offices

**REFERENCE:** AR 204 - Employment PAGE 1 of 2

**APPROVED:** Original signed by Wendy Kelley

**EFFECTIVE DATE:** 7/22/2019

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### **I. POLICY:**

It is the policy of the Department of Correction to operate all Human Resource Offices within established OPM guidelines.

### **II. PURPOSE:**

The ADC Leave Audit Process is established to ensure adherence to laws, rules, policies and procedures that govern attendance and leave. The audit process is designed to assist Unit Human Resource Managers in the application of related rules, policies and procedures and to help identify where additional training or assistance may be needed.

### **III. PROCEDURES:**

Leave audits will be scheduled on an as needed basis to ensure compliance with policies and procedures that govern leave. The Employee, Supervisor, Administrator/Warden may submit a request for a leave audit to Central Human Resource.

A. Role of the Unit Human Resource Manager

The Unit HR Manager is responsible for overseeing the day-to-day operations of the human resource office at the unit. This includes assuring that established policy is adhered to as well as communicated to all unit personnel.

B. Responsibilities of the Warden

As the Warden of a Unit and supervisor of the Unit Human Resource Manager, it is the responsibility of the Warden to ensure that the overall operation of the Unit Human Resource Office is consistent and within the mandate of established policy and procedure. The Warden should ensure that their HR staff is properly trained and possess the skills and abilities necessary to sufficiently operate the HR office.

C. Internal Audit Procedures

Leave audits should always contain the records for the entire leave year up to and including the most current leave numbers available.

The audit may include but not be limited to the following areas:

Personnel Files  
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D. Completion of Audit

Upon completion of the audit, an oral assessment of the findings with the Warden, HR Manager and any other applicable staff. Once the formal audit has been completed, the auditors will provide the HR Manager with an audit report.

The Warden and the HR Manager should mutually agree on a date by which all corrections to all records (examined and not examined) are to be made. Upon this date, the HR Manager should provide the Warden with verification that all appropriate corrections were made.

Once the written audit report has been completed a copy will be sent to the Warden, Human Resource Administrator and Unit HR Manager. In cases where the records are severely out of compliance, a copy of the audit report will be sent to the appropriate Assistant/Deputy Director.



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Inmate Grievance Procedure

**NUMBER:** 19-

**SUPERSEDES:** 14-16

**APPLICABILITY:** All employees and inmates

**PAGE** 1 of 31

**REFERENCE:** AR 835 - Grievance Procedure for Offenders

**APPROVED:** Original signed by

**EFFECTIVE DATE**

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### I. POLICY:

It is the policy of the Arkansas Department of Correction to provide inmates in its custody an administrative process for the resolution of complaints, problems and other issues.

### II. EXPLANATION:

The grievance procedure is an administrative process for the submission and resolution of inmate problems and complaints. The process is designed to solve the problem at the lowest level, as promptly as feasible, and in a manner that is fair, reasonable, and consistent with the Department of Correction's mission.

The administrative process for the resolution of complaints and identification of problem areas is intended to supplement but not replace daily and routine communication between staff and inmates.

### III. DEFINITIONS:

- A. Informal Resolution – the first step consisting of a written complaint (Unit Level Grievance Form, Attachment I) by an inmate that is intended to allow staff the

opportunity to resolve an issue on an informal basis, and to serve as a prerequisite to the second step, a formal grievance.

- B. Grievance – the second (formal) step where a written complaint using the same form used for the Informal Resolution (Unit Level Grievance Form, Attachment I) is submitted by an inmate on the inmate’s own behalf (an inmate cannot grieve on behalf of another inmate) regarding:
1. A policy applicable within his or her unit/center of assignment that personally affects the inmate;
  2. A condition in the facility that personally affects the inmate;
  3. An action of another inmate, or inmates, that personally affects the inmate;
  4. An action of an employee(s), contractor(s), or volunteer(s) that personally affects the inmate; or
  5. An incident occurring within his or her facility that personally affects the inmate.
- C. Warden – the Warden or Center Supervisor of the facility or designee.
- D. Appeal – a written request directed to a Chief Deputy/Deputy/Assistant Director for further action to resolve the issue or complaint in the grievance based upon the inmate’s assertion that the issue has not been resolved at the Unit level. (The appeal cannot raise new or additional issues or complaints.)
- E. Working Days – Monday through Friday, excluding state observed holidays.
- F. Emergency – a problem that, if not immediately addressed, subjects the inmate to a substantial risk of personal injury or other serious and irreparable harm such as, physical abuse. If a grievance, submitted as an emergency grievance by the inmate, is deemed an emergency by the problem solver, the grievance is immediately submitted to the Warden/highest ranking supervisor at the unit without the completion of Step One, the informal process; however, if the grievance is not an Emergency, it will be processed under Step One.
- G. PREA Grievance – Grievance where inmate is alleging staff-on-inmate or inmate-on-inmate sexual abuse or sexual harassment as those terms are defined in the PREA Administrative Directive. A Problem Solver should immediately submit a suspected PREA grievance to the highest ranking supervisor at the unit, who will then contact the duty warden, without the completion of Step One, the informal process; however, if the duty warden finds that the grievance is not a PREA grievance, it will be returned to the Problem Solver and processed under Step One.

H. Non-Grievable Issues – the following matters are not grievable:

1. Parole;
2. Release;
3. Transfer;
4. Job Assignments unless in conflict with medical restrictions;
5. Disciplinary;
6. Anticipated events (i.e., events or activities which may or may not occur in the future);
7. Matters beyond the control of the Department of Correction, including issues controlled by State or Federal law or regulation;
8. Rejection of a Publication
9. A grievance submitted by an inmate on behalf of another inmate.

Note: Claims of Retaliation, even if related to an issue referenced above, are Grievable.

- I. Available Remedies –if the facts asserted by the inmate would, if true, fall within the definition of Grievance, the matter shall be investigated, unless previously investigated. If the grievance is found to be with merit, the Department official designated to respond to the grievance shall have the authority, within the exercise of his or her discretion and consistent with the Department policies and the safety, security and good order of the facility, to offer actions by the Department designed to resolve the inmate’s grievance. However, such available remedies do not include disciplinary action against an employee, contractor, or volunteer, nor monetary damages.
- J. Problem Solver – staff designated at each facility to serve as a contact for resolution of a problem or complaint, and specifically, to resolve Step One issues raised in this process. A list of these individuals will be posted in each housing unit. If the Problem Solver(s) is not available, any staff member of the rank of sergeant or above can collect Step One grievances (also referred to as “informal”) and shall then act as the Problem Solver for that Step One grievance.
- K. Medical Department – Health Services Administrator (HSA) or designee.
- L. Mental Health Supervisor – the Department of Correction employee supervising the mental health staff and programs at the unit level.

**IV. PROCEDURES:**

The inmate grievance procedure is an internal administrative process for the resolution of complaints and the identification of potentially problematic management areas; however, it does not replace daily and routine communication between inmates and staff. Prior to filing a formal grievance (Step Two), an

inmate must first seek a resolution of the complaint informally by taking Step One under this policy.

One form (Attachment I) will be used for both Step One (informal resolution) and Step Two (formal grievance). This same form will be used to submit all inmate grievance issues, including emergencies.

#### A. Proposed Changes to the Procedure

When the Department proposes to adopt changes to any policy which affects the inmate grievance process, the proposed changes shall be posted in prominent locations **(to include employee and inmate bulletin boards and including electronic distribution) throughout the institution at least 30 days prior to the adoption of the changes.** All comments shall be considered prior to adoption of the change and shall be kept as part of the appropriate policy file documentation. **Inmates in Restrictive Housing will be provided a copy of the proposed change by the Grievance Officer at least 30 days prior to the adoption of the change.**

#### B. Communication of Procedure

1. Written notification of the Inmate Grievance Procedure, and any changes there to, will be distributed to both inmates and employees. In addition, arriving inmates and new employees will have an opportunity to ask questions about the procedure and have them answered verbally.
2. If an inmate has a disability affecting communication or is not fluent in the English language, interpretive or explanatory services will be made available.
3. All employees at the facility level shall receive training by designated staff in the skills necessary to assist or participate in the inmate grievance procedure.
4. A summary of the Inmate Grievance Procedure will be included in the Inmate Handbook. However, the Inmate Grievance procedure is governed by this Administrative Directive and not any summary in the Inmate Handbook. All inmates shall be provided access to this Administrative Directive.

#### C. Accessibility

Each inmate shall be entitled to utilize the Inmate Grievance Procedure regardless of his or her security status, custody level, job classification, disciplinary status, or any administrative/ judicial decisions affecting the inmate.

1. Copies of this policy shall be available for examination in each Unit's Law Library.
2. The Attachment I grievance form shall be readily available to any inmate in any housing area at any time; however, no more than five (5) forms per week, except in the case of an emergency as defined in this policy, may be requested by an individual inmate. Additionally, an inmate may not have more than ten (10) blank Attachment I grievance forms in his or her possession at any one time, and no more than twenty (20) unsubmitted (not signed by a Problem Solver) Attachment I grievance forms in his or her possession at any one time.
3. An inmate may request one copy of his or her grievance from the facility grievance staff upon presenting a completed Section 1983 lawsuit or Claims Commission claim. The inmate must provide the grievance number for the particular grievance he/she is requesting.
4. A Grievance must specifically name each individual involved in order that a proper investigation and response may be completed. An inmate must fully exhaust the grievance procedure as a prerequisite to pursuing any legal action related to the subject matter of the grievance. All inmates are hereby advised that the Department reserves the right to raise any and all defenses, including the failure to exhaust the grievance procedure, as to any claim which may have been subject to the grievance procedure and as to any person or entity.

An inmate who fails to name all parties during the grievance process may have his or her lawsuit or claim dismissed by the court or commission for failure to exhaust against all parties.

#### D. Completion of Forms

1. Inmates who have difficulty understanding how to complete the grievance forms or difficulty actually completing the forms should request and will be provided with assistance from staff. However, there is no prohibition against an inmate seeking assistance from another inmate if the grievant has language barriers or cannot read or write.
2. Only one Unit Level Grievance Form (Attachment I) can be submitted per grievance and only one problem/issue should be stated in the grievance, not multiple problems/issues. An inmate must use a separate form for each issue. Only one issue will be addressed in the response to a grievance. Additional problems/issues contained in the grievance will not be addressed and will not be considered as exhausted. Inmates are reminded that exhaustion of an issue is a prerequisite to filing a lawsuit related to that issue in accordance with the Prison Litigation Reform Act of 1995.



3. If the inmate is legally using a name other than the name under which he or she was committed to the Arkansas Department of Correction, both the legal and commitment names shall be used when completing the forms.
4. All forms, except those submitted electronically where and when electronic submission is available, must be legible and in ink, if available. Tape and other adhesive substances should not be used on any grievance forms.
5. If any Grievance Form is received in an unsanitary condition, that form(s) may be photographed and logged and held for evidence for appropriate disciplinary action against the inmate. Unsanitary grievance forms will not be accepted. The Problem Solver will return the grievance form to the inmate and then complete an Incident Report (Form 005).

#### E. Step One: Informal Resolution Procedure

Inmates are required to seek an informal resolution of a problem/complaint prior to filing a grievance.

1. The Unit Level Grievance Form (Attachment I) shall be completed and submitted within 15 days after the occurrence of the incident, with the date indicated beside "Step 1: Informal Resolution". PREA grievances are not subject to the 15 day time limit.
2. On the Unit Level Grievance Form (Attachment I), and only in the space provided, the inmate should write a brief statement that is specific as to the substance of the issue or complaint to include the date, place, personnel involved or witnesses, and how the policy or incident affected the inmate submitting the form. Illegible or unintelligible grievances will not be accepted, but rather will be returned to the inmate by the Problem Solver with an explanation setting out why the grievance will not be accepted. The Problem Solver will then complete an Incident report (Form 005).

Additional sheets, including additional pages of the grievance written on Unit Level Grievance Forms (Attachment I) should not be attached and will be returned to the inmate upon submission or as soon as practical. **ONLY THE STATEMENT IN THE SPACE PROVIDED ON THE ATTACHMENT I FORM WILL BE MAINTAINED AND CONSIDERED THE GRIEVANCE SUBMISSION.** However, additional sheets attached to PREA grievances will be maintained with the grievance.

3. The Unit Level Grievance Form (Attachment I) should be presented to one of the individuals whose name is posted in the housing unit as a designated Problem Solver. If a Problem Solver is not available, any staff

**Commented [SB1]:** Are you saying these grievances will be rejected? If we are adding illegible or unintelligible to the reasons for rejection, these reasons need to be added to the Rejection Form. I personally believe you are opening us up to trouble with this. We receive numerous grievances that I believe to be unintelligible; however, the next person reading it may not think so. Also, some of our inmates do not have the highest level of education. How can we reject their complaint/issue simply because they do not have the intelligence we think they should have? The problem solver is supposed to meet with the inmate at Step One. Any issues with understanding their grievance due to it being illegible or unintelligible, should be addressed at that time.

**Commented [JD2]:** Another WK suggestion. Same response: if the PS says "I can't read this, the inmate will be able to fix it, or at least tell the PS the specifics of the grievance."

member holding the rank of sergeant or above can collect a Step One grievance and shall then act as the Problem- Solver for that Step One grievance. If it is a PREA grievance, any staff member may act as the problem solver. At this time, the Problem Solver or staff member must sign and date the form, giving the inmate back the yellow and pink copies as receipts.

4. After receipt of the Unit Level Grievance Form (Attachment I), the Problem Solver will:
  - a. meet with the inmate within three working days to resolve the issue; or
  - b. meet with the inmate immediately to resolve the issue if it is an emergency; or
  - c. refer medical issues to the HSA (examples include, but are not limited to, missed medications, inability to access medical services, failure to be seen at Sick Call or clinic appointments, or failure to receive lab or test results) as soon as practical, but in any event within one working day; or
  - d. refer mental health issues to the Mental Health Supervisor as soon as practical, but in any event within one working day; or
  - e. If the grievance is a PREA grievance, immediately notify the highest ranking officer at the unit or Duty Warden who will immediately cause the initiation of an investigation.
5. If the inmate believes the matter to be an Emergency, as defined in this Administrative Directive, he/she will fill in the date beside "Emergency Grievance" on the Unit Level Grievance Form to designate the grievance as an Emergency, and present the form to any staff member, but preferably a designated Problem Solver. If that staff recipient determines that an Emergency does exist, corrective action shall be taken as soon as possible and within no more than twenty-four (24) hours. If the staff recipient determines that no Emergency exists, the informal resolution form shall be processed within the normal time limits stated within this policy.
6. Upon receipt of a Unit Level Grievance Form submitted under Step One, the HSA, or medical department representative appointed by the HSA, or the Mental Health Supervisor will take whatever action is deemed clinically appropriate to fully resolve the problem, document the action taken, or state why no action is necessary or appropriate. The HSA or Mental Health Supervisor or designee will sign the form in the space provided for the staff signature which is found on the same line as the inmate signature following the description of the action taken to resolve the complaint. Please note the staff signature should NOT be in the space provided for the signature of the designated Problem Solver.

Commented [JD3]:

Commented [JD4]: Barbara: this sounds like the problem solver refers medical and MH grievances before the matter ever gets to the grievance officer

Commented [SB5]: The Step One is forwarded to medical and MH before it goes to the grievance officer.

Commented [JD6]:

7. As soon as practical, the HSA, Mental Health Supervisor, or designee will return the Unit Level Grievance Form to the inmate, and provide a copy to the Grievance Officer. NOTE: In no event should this period exceed three (3) working days from submission of the Unit Level Grievance Form for Step One by the inmate to the Problem Solver. The HSA, Mental Health Supervisor, or designee should not respond to a grievance that is alleging misconduct by that individual against the inmate; however, where the inmate still has another step in the grievance process to challenge the conduct or the inmate is alleging indirect misconduct (failure to act) as opposed to direct misconduct, such as physical abuse or retaliation, by the HSA or the Mental Health Supervisor, then the Regional Manager or Mental Health Administrator will respond after the medical or mental health department has appropriately logged the resolution.
8. The HSA or Mental Health Supervisor will retain a copy for his or her records and for quality improvement purposes.
9. If the problem (those not referred to medical or mental health departments) can be resolved at the informal level, the Problem Solver should document the action taken on the Unit Level Grievance Form (Attachment I) and then both the inmate and the Problem Solver must sign and date the form.
10. If the problem cannot be resolved at Step One, the informal level, the Problem Solver must still document the resolution attempt on Attachment I, and then the inmate and the Problem Solver must sign and date the form. At this time, if the inmate chooses, he/she may now proceed to Step Two (the formal grievance) using this same form (Attachment I). See procedures for Step Two below.
11. If the designated Problem Solver (or substituted person to resolve the issue such as a medical or mental health staff member) has failed to contact the inmate and attempt resolution of the complaint or failed to return Step One (the grievance) within the designated three working days, the inmate may proceed to Step Two, the formal grievance, without the completion of Step One. In that instance, Step Two, the formal grievance, must be filed no later than six (6) working days from the original submission of the Unit Level Grievance Form pursuant to Step One: this allows three (3) working days to wait for a response to Step One, and three (3) working days to initiate Step Two. (These are not three (3) additional days, i.e., if the Problem Solver returns Step One on the day it was submitted, the inmate has only three (3) working days from receipt of that response to file Step Two.) The inmate will submit a copy of his/her Unit Level Grievance Form using the pink or yellow copy, whichever is most legible, that he/she retained following the instructions for Step Two.

12. Whether or not the problem is resolved, the inmate should retain either the pink or yellow copy, whichever he did not submit for Step Two. A copy may be retained by the designated Problem Solver, and a copy is forwarded to the Grievance Officer for entry into the offender tracking system if necessary.
13. If an inmate has been transferred from the Unit where the incident or issue arose within the fifteen (15) days allowed to file Step One and the inmate submits Step One at a different Unit, and if the Problem Solver, HSA, or Mental Health Supervisor cannot address the issue because of the transfer, then the response to Step One should be "proceed to Step Two." Upon submission of Step Two, the Grievance Officer will complete the portion of the Unit Level Grievance Form indicating the date received and to whom it was sent and immediately forward the grievance to the Grievance Officer at the unit where the incident or issue arose to process with a grievance number from that Unit. The deadlines will remain the same under this procedure to submit the grievance steps, and to respond with the date of submission to the first Grievance Officer beginning the response time.

#### F. Step Two: the Formal Grievance Procedure

After attempting to resolve the issue through Step One, informal resolution, an inmate can proceed to Step Two by filing a formal grievance on the same Unit Level Grievance Form (Attachment I) that was used for Step One.

1. The inmate should complete the date beside "Step Two: Formal Grievance" and the section regarding resubmission (of this form) including an explanation why the inmate considers the informal resolution unsuccessful, and deposit it into the designated grievance box, or submit it to a Staff Member if the inmate's assignment prevents access to the grievance box. The Grievance Officer shall collect grievance forms daily, excluding weekends and holidays.
2. Additional sheets cannot be attached to the Unit Level Grievance Form (unless it is a PREA grievance) and only information in the space provided will be considered part of the grievance submission. Any new issues added to the form will not be considered.
3. Upon receipt, the Grievance Officer shall complete the box "for office use only" on the Unit Level Grievance form by assigning a number to the grievance (using unit and subject codes as described in the Grievance Procedure Codes-Attachment VII), and logging the date the grievance was received, inmate's name, ADC number, type of grievance, and the text of the inmate's complaint contained within the appropriate space on Attachment I in eOMIS.

- a. All medical issues will be coded 600 by the Unit Grievance Officer. All mental health issues will be coded 630.
  - b. The Medical and Mental Health Departments will assign more specific type codes as indicated on Attachment VII into eOMIS when completing the response to the grievance.
4. The Grievance Officer shall then transmit an Acknowledgement or Rejection of the Unit Level Grievance Form (see Attachment II) to the inmate within five (5) working days after receipt. No acknowledgment is required if a written response to the grievance, signed by the Warden, Health Services Administrator, or Mental Health Supervisor or designees, can be provided within five (5) working days.
5. The Grievance Officer will note whether the grievance is medical or mental health related. Such Step Two medical or mental health grievances will be forwarded as soon as possible, and in no event later than five (5) days, to the appropriate medical or mental health department for investigation and response to the inmate.
- a. If the grievance is medical in nature, it is forwarded to the Health Services Administrator (HSA) at the Unit Medical Department for a response. The HSA, or designee, should not respond to a grievance that is alleging misconduct by that individual unless the inmate still has another step in the grievance process to challenge the conduct, or the inmate is alleging indirect misconduct (failure to act). Where the inmate is alleging direct misconduct (such as physical abuse or retaliation) by the HSA, then the appropriate Regional Manager will respond after the medical department has appropriately logged the resolution.
  - b. If the grievance relates to mental health services, the supervisor of mental health services for the facility, or designee, will answer the grievance. The Mental Health Supervisor, or designee, should not respond to a grievance that is alleging misconduct by that individual unless the inmate still has another step in the grievance process to challenge the conduct, or the inmate is alleging indirect misconduct (failure to act). Where the inmate is alleging direct misconduct (physical abuse or retaliation) by the Mental Health Supervisor, then the Mental Health Administrator at Central Office will respond after the mental health department has appropriately logged the resolution.
6. The Inmate Grievance Worksheet (see Attachment VIII) may be used by staff when investigating grievances.

**Commented [JD7]:** This is problematic as earlier language suggested that the problem-solver has already forwarded the grievance to med or MH.

**Commented [SB8]:** Yes, the grievance has already been forwarded to the medical department. However, that was the informal level, Step One.. We are now talking about the formal level, Step Two.

7. Every inmate grievant shall receive a written or electronic response to his or her grievance within 20 working days of receipt (or more promptly in the case of an Emergency grievance). The response will be on the form entitled Warden/Center Supervisor Decision (Attachment III), and signed by the Warden or the Warden's designee. In the case of a medical or mental health grievance, the response will be on the form entitled Health Services Response to Unit Level Grievance (see Attachment IV) from the medical or mental health department.

The Unit Level Grievance Response/Decision shall include:

- a. the reason for the decision, in clear, well reasoned terms; and
  - b. a statement that the Grievance:
    - has merit and requires further action for resolution; or
    - has merit, but is being resolved; or
    - had merit but has been resolved; or
    - has no merit.
8. The Grievance Officer will meet with the Warden for the appropriate response to the grievance. If the Warden refers a PREA investigation to IAD, the grievance response is sent after the Warden receives the Director's disposition of suspected PREA allegation.
9. If an inmate has not received a response to his/her Unit Level Grievance within the allotted time frame as stated on the Acknowledgement Form or the Extension Form, if applicable, the inmate may move to the next level of the process, an appeal to the Chief Deputy/Deputy/Assistant Director Level. In this instance, the appeal must be filed no later than five (5) working days.

The Grievance Extension Form will be used in cases where a longer period is required for a response to or resolution of the problem. The inmate shall be notified by the responding authority, in writing, of the reason for the delay and its expected length on the Grievance Extension Form (see Attachment X). Time limits for responding will be extended automatically upon the completion of the Grievance Extension Form (Attachment X), unless the inmate disagrees in writing to the extension. If the inmate does not agree to the extension, the inmate understands and agrees that, with that decision, no further action will be taken on the issue, and the grievance will be returned to the inmate without a decision on its merit. By disagreeing with the extension, the inmate waives his or her right to have the grievance issue considered. If a second or additional extension is needed, the extension will be granted only upon approval of the Warden or Deputy Warden at the Step Two level.

**Commented [JD9]:** Not sure this is accurate.

**Commented [SB10]:** Are you suggesting we extend the grievance in order to wait on the investigation report? If so, this potentially puts the response past the 76 day time frame.

**Commented [JD11]:** He'll have to get an extension, because he cannot fairly respond without them final AID report.

### G. Steps to Appeal the Unit Level Grievance Decision:

After receiving a response from the Warden, the Health Services Administrator (HSA), the Mental Health Supervisor, or applicable designee, if the inmate is not satisfied, he or she may appeal to the appropriate Chief Deputy/Deputy/Assistant Director who will attempt to resolve the matter or assign an appropriate staff member to do so. In this instance, the appeal must be filed within the five (5) working days from the date of the response.

1. The appeal must be written in the space provided above the signature line on the original Warden/Center Supervisor's Decision Form (Attachment III), the Health Services Response to Unit Level Grievance Form (Attachment IV) for medical or mental health grievances entitled Inmate's Appeal (see Attachment III and IV), or the Acknowledgement or Rejection of Unit Level Grievance (Attachment II). Only what is written in the space provided above the signature line for appeal will be considered part of the grievance appeal. Except for a PREA grievance, additional sheets should not be attached and will be returned to the inmate upon receipt of the appeal or as soon as practical. ONLY THE STATEMENT IN THE SPACE PROVIDED ABOVE THE SIGNATURE LINE WILL BE MAINTAINED AND CONSIDERED PART OF THE APPEAL SUBMISSION.
2. To appeal the inmate must include the original (no photocopies) Unit Level Grievance Form (Attachment I), which describes the matter originally grieved, and either the Warden/Center Supervisor Decision Form (Attachment III), the Health Services Response to Unit Level Grievance (Attachment IV), or the Acknowledgement or Rejection of Unit Level Grievance (Attachment II) if the inmate is asserting the grievance was improperly rejected or if the inmate did not receive a response or extension within the applicable timeframe. The inmate should deposit the appeal into the designated grievance box; or submit it to a Staff Member if the inmate's assignment prevents access to the grievance box. If these two (2) pages are not submitted with the inmate's appeal portion completed, the appeal may be returned to the inmate as rejected.

To complete the appeal, the inmate must state a reason for the appeal, and must date, sign, and write the inmate's ADC number on the attachment being appealed.

Do not list additional issues, requests, or names which were not a part of the original grievance, as those will not be addressed.

3. The Chief Deputy/Deputy/Assistant Director may process a grievance appeal not meeting the criteria set forth above when necessary for the

**Commented [JD12]:** Is this the first reference to the possibility that a grievance may be rejected?

**Commented [SB13]:** Appeals do not go in the grievance box. Inmates are to send their appeals to the deputy director via truck mail or postage mail. If they choose postage mail, they must supply the postage.

**Commented [JD14]:** I think this was a WK suggestion. We will address it.

**Commented [SB15]:** Or designee.

safety and security of the Department

4. Appeals relating to medical, mental health or treatment program issues are submitted to the Deputy Director for Health and Correctional Programs.

All other grievances will be forwarded to the appropriate Chief Deputy/Deputy/Assistant Director for Institutions.

All Appeals will be answered by the Chief Deputy/Deputy/Assistant Director regardless of whether those individuals are named in the grievance.

5. Receipt of the appeal shall be acknowledged or rejected within five (5) working days unless a response can be provided within five (5) working days to the grievance signed by the Chief Deputy/Deputy/Assistant Director. The response shall be in written or electronic format.

6. The Chief Deputy/Deputy/Assistant Director will respond to the inmate concerning the decision within thirty (30) working days unless there is an extension or the appeal is rejected and the inmate is notified of the reason for rejection on the Acknowledgment of Grievance Appeal/Rejection of Appeal form (see Attachment V). A decision or rejection of an appeal at this level is the end of the grievance process. The response shall be in written format.

7. If a grievance appealed is a duplicate of one previously appealed by the inmate with regard to the staff member named, the date of the incident, and the subject of the grievance, the inmate will be sent an Acknowledgment of Grievance Appeal/Rejection on Attachment V, and it will be noted as "Duplicate of \_\_\_\_\_" and the earlier grievance number will be filled in the blank; the duplicate will be returned to the inmate with the Attachment V.

8. The Grievance Extension Form will be used in cases where a longer period is required for a response or resolution of the problem. The inmate shall be notified by the responding authority, in writing, of the reason for the delay and its expected length on the Grievance Extension Form (see Attachment X). Time limits for responding will be extended automatically upon completion of the Grievance Extension Form (Attachment X), unless the inmate disagrees in writing to the extension. If the inmate does not agree to the extension, the inmate understands and agrees that, with that decision, no further action will be taken on the issue, and the grievance appeal will be returned to the inmate without a decision on its merit. By disagreeing with the extension, the inmate waives his or her right to have the grievance issue considered or exhausted. A second or subsequent

**Commented [SB16]:** Add something about medical.

**Commented [JD17]:** "Deputy" includes Rory.

**Commented [SB18]:** When I said add something about medical, I was talking about as to why an appeal may be processed although they did not meet the criteria. Safety and security does not really include medical reasons. Medical could have really messed up and we think the issue should be addressed.

Regarding the "designee" recommendation, Terri and myself are the ones tasked with the decision of processing an appeal that does not meet the criteria, not the DD.

**Commented [SB19]:** In D #4, you mention electronically filed grievances. Should this go along with the possibility of electronically filed grievances?

**Commented [JD20]:** The term "written format" includes electronic communications.

**Commented [JD21]:** Shelly: is this your suggested edit?

**Commented [SB22]:** Yes. Refer to my comment on H regarding electronically filed grievances.



extension can be granted only with the approval of the Chief Deputy/Deputy/Assistant Director.

9. The entire grievance procedure should be completed within seventy-six (76) working days unless a valid extension has been executed, or it can be documented that unforeseen circumstances have occurred.
10. Release of the inmate from custody will normally terminate his or her grievance, unless the parties are under court order to exhaust remedies or the grievance highlights a problem that needs to be addressed at the discretion of the Chief Deputy/Deputy/Assistant Director, or designee.

**Commented [JD23]:** It come from WK. I'll let her know of your comment. Ha.

**Commented [SB24]:** I'll tell her ☹. Seriously, though, if the "If" is removed from the beginning of the sentence, it would be fine.

**Commented [SB25]:** This sentence does not make sense.

**Commented [SB26]:** Or designee??

#### H. Remedies

A grievance with merit will be afforded a reasonable range of meaningful remedies.

1. The responsible authority will review the conditions, policies or practices grieved and take appropriate action.
2. When a higher authority than the responding authority must authorize appropriate action, the lower authority shall note its agreement or disagreement with the inmate and transmit the completed grievance form to the higher authority with notice to the inmate.
3. The Department is to encourage the resolution of grievances found to have merit involving property losses, confiscations or forfeitures through the return of the property or replacement.
4. Errors in record keeping may be corrected and action by the staff or Classification Committees may be modified as appropriate.
5. No grievance should be discussed between or among employees and inmates except as necessary to obtain statements or to resolve the issues.
6. No employee should respond to a grievance that is alleging misconduct by that employee against the inmate unless (a) the inmate still has another step in the grievance process to challenge the conduct, or (b) the inmate's allegation was of indirect misconduct (conduct by omission). Where the inmate is alleging direct misconduct (such as physical abuse) by the employee, the employee shall not respond to the grievance. No employee may respond to a grievance that is alleging sexual harassment or sexual abuse by that employee against the inmate.

**Commented [SB27]:** Does not make sense.

**Commented [SB28]:** Since this is not taking place, can we remove it?

**Commented [SB29]:** I am not sure this actually takes place. If it does, where is the agreement or disagreement noted?

**Commented [JD30]:** This is not a change, just an attempt at clarification. Clearly, a failed one.

## I. Allegations of Abuse

Any credible allegation of excessive force, sexual harassment or abuse, assault, or similar physical abuse of an inmate will be forwarded to the Internal Affairs Division for an investigation consistent with Arkansas Department of Correction policies.

## J. Abuse of the Grievance Procedure

Abuse of the grievance procedure by inmates will be dealt with in the following manner:

1. Excessive Use of the Procedure
  - a. Step One, Informal Resolutions, are limited to five (5) per seven-day period because excessive submissions may cause a delay in processing inmate grievances. The Warden or designee must maintain a record of five (5) submissions each seven-day period before rejecting one from that inmate. Only the first five (5) informal grievances, Step One, will require a response. The seven-day period will begin each Saturday and end on Friday. The submissions that exceed the limit will be marked as "No action necessary-exceeds weekly limit," followed by the staff person's name, signature and date verifying that person verified (1) that five (5) submissions under Step One had already been received from the inmate that seven-day period, and (2) it was not an emergency. A submission rejected under this section shall be returned to the inmate.
  - b. Inmates are only allowed to submit three formal grievances, Step Two, each seven-day period which begins each Saturday and ends on Friday. Only the first three formal grievances, Step Two, submitted each seven-day period by an inmate require an investigation and response. This limit includes both institutional and medical or mental health grievances. All other formal grievances will be logged and reviewed to determine if an emergency exists. If it is determined to be an emergency, action will be taken promptly to resolve the issue; however, a written response to the inmate is not required. If no emergency exists, the grievance will be logged out on the same day received, and it shall be written on the Unit Level Grievance Form "No action necessary-exceeds weekly limit," dated and signed. The original grievance will then be placed in the grievance file and no written response will be given to the inmate.

- c. If the formal grievance is regarding a health issue, but exceeds the inmate's limit for weekly submission, the grievance officer will note at the top of the grievance form "EXCEEDS WEEKLY LIMIT." The formal grievance will then be forwarded to the medical or mental health department to determine if an emergency exists. If the medical or mental health departments determine the grievance to be an emergency, the Health Services Administrator or Mental Health Supervisor will ensure that prompt action is taken to resolve the issue; however, a written response to the inmate is not required. If neither the medical nor mental health departments determine the grievance to be an emergency, it will be noted at the top of the grievance form, "not an emergency" beside the "EXCEEDS WEEKLY LIMIT" statement, dated and signed by the Health Services Administrator or Mental Health Supervisor and returned to the Grievance Officer for filing.
  - d. If a formal grievance is a duplicate of one previously submitted by the inmate with regard to the staff member named, the date of the incident, and the subject of the grievance, the duplicate grievance will be logged into eOMIS, the inmate will be sent a Rejection of Grievance on Attachment II, and note at the top of the grievance form as "Duplicate of \_\_\_\_\_" and the earlier grievance number will be filled in the blank; the duplicate will be returned to the inmate with the Attachment II and counted as one of the inmate's weekly submissions.
  - e. If the duplicate grievance is regarding a health issue, the grievance officer will forward the logged grievance and Rejection of Grievance Attachment II to medical or mental health to determine if a response is necessary or an emergency exists. If necessary, the Health Services Administrator or Mental Health Supervisor will ensure that prompt action is taken to resolve the issue, and if not, the medical or mental health staff will note at the top, "no response necessary on duplicate," date and sign it, and return both the grievance and Rejection of Grievance Attachment II to the inmate.
2. Frivolous and Vexatious (Provoking or Harassing) Use of the Procedure
- a. A frivolous or vexatious submission at any step will be logged and returned to the inmate with a Rejection form (Attachment II or Attachment V) and counted as one of the inmate's weekly submissions.

- b. A submission is frivolous when it is clearly insufficient on its face to allege an issue or concern and is readily recognizable as devoid of merit and insufficient for resolution or appeal.
- c. A submission is vexatious when it merely agitates, provokes, harasses or irritates by petty provocation and is not designed to lead to any practical result, resolution, or appeal.

### 3. Use of Threats

An inmate who use the grievance procedure to direct threats at another will have the grievance rejected and copies will be referred to Internal Affairs to consider for referral for prosecution.

### 4. Malicious Use of the Procedure

Any inmate who knowingly makes false statements in a submission for the purpose of harming another person will have the grievance rejected.

## K. Reprisals or Retaliation

1. No inmate shall suffer any threat or action based on his or her appropriate use of, or participation in, the grievance procedure. If an inmate believes he/she has been retaliated against for the use of the grievance procedure, he/she must contact the Warden/Center Supervisor or in a case of alleged retaliation by the Warden/Center Supervisor, the inmate shall contact the appropriate Chief Deputy/Deputy/Assistant Director. Regardless, the inmate must exhaust their remedies through the grievance process.
2. Any reprisal or retaliation by staff is absolutely prohibited and will be dealt with in accordance with the appropriate policy regarding employee conduct and discipline. All personnel shall receive written and oral notice that formal and/or informal reprisals will not be tolerated.

The Training Academy has implemented a training program regarding inmate problem resolutions and complaints. The training is mandatory for all staff involved in the inmate grievance process.

3. Once an inmate initiates the grievance process, the process shall be followed through all stages without interference by administrators or employees of the department. Anytime an inmate voluntarily decides to withdraw a grievance, he or she must submit a Grievance Waiver Form (see Attachment IX). The appropriate staff will verify receipt of the waiver in writing.

4. If reprisal or retaliation is suspected or determined after the unit/center investigation, the grievance shall be forwarded to Internal Affairs for further review with all relevant documentation.

#### L. Records

1. Each designated administrator at each level of response shall collect and systematically maintain records regarding the filing and disposition of grievances. These records will be maintained pursuant to the Department's record retention policy in either hard copy or in a retrievable form, as well as in the inmate's electronic record, and shall be available for inspection as required by law.
2. At a minimum, such records shall include aggregate information regarding the numbers, types and disposition of grievances, as well as individual records of the dates and reasons for each disposition at the formal grievance (Step Two) and appeal stages of the procedure and shall be logged in the electronic offender records system. Such records shall be preserved in accordance with the policy regarding records retention.
3. Records regarding the participation of an individual in grievance proceedings shall not be available for review by any inmate other than the grievant.
4. Grievance records, including statements and testimony provided during the process, are confidential and are not available to inmates. Department personnel other than those directly involved in the grievance process may not have access to the information, unless the person's job requires access to such records.
5. Except as otherwise provided by Arkansas law, grievance records will not be available to non-departmental personnel other than those representing the Department of Correction or providing services such as imaging or destruction of records under an agreement with the Department of Correction.
6. No entries concerning grievances, or an inmate's participation in a grievance proceeding through testimony or submission of evidence, shall be recorded in the inmate's paper institutional file.
7. Only those positions authorized by the appropriate Chief Deputy/Deputy/Assistant Director will have access to the Grievance Tracking Program.

#### M. Evaluation

1. Monthly, quarterly and annual reports may be generated from the tracking system.
2. Records of staff efforts at problem solving may be considered by supervisors evaluating the performance of staff.

N. Prison Litigation Reform Act Notice

Inmates are hereby advised that they must exhaust their administrative remedies as to all defendants at all levels of the grievance procedure before filing a Section 1983 lawsuit or Claims Commission claim. If this is not done, the lawsuit or claim may be summarily dismissed.

Inmates must attach a copy of the Chief Deputy/Deputy/Assistant Director's response to any petition or complaint; otherwise, the court or commission may dismiss the case.

Inmates are also advised that they shall be subject to paying filing fees in Federal Court pursuant to the Prison Litigation Reform Act.

V. **REFERENCES:**

Prison Litigation Reform Act  
Prison Rape Elimination Act

VI. **ATTACHMENTS:**

Attachment I – Unit Level Grievance (Informal Resolution/Formal Grievance/Emergency Grievance)  
Attachment II – Acknowledgment of Unit Level Grievance  
Attachment III – Warden/Center Supervisor's Decision/Inmate Appeal  
Attachment IV – Health Services Response to Unit Level Grievance  
Attachment V – Acknowledgment of Grievance Appeal/Rejection of Appeal  
Attachment VI – Chief Deputy/Deputy/Assistant Director's Decision  
Attachment VII – Grievance Codes  
Attachment VIII – Inmate Grievance Investigation Worksheet  
Attachment IX – Grievance Waiver  
Attachment X – Grievance Extension

**UNIT LEVEL GRIEVANCE FORM**

**Attachment I**

Unit/Center \_\_\_\_\_

Name \_\_\_\_\_

ADC# \_\_\_\_\_ Brks # \_\_\_\_\_ Job Assignment \_\_\_\_\_

\_\_\_\_\_ (Date) STEP ONE: Informal Resolution

\_\_\_\_\_ (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

If the issue was not resolved during Step One, state why: \_\_\_\_\_

\_\_\_\_\_ (Date) EMERGENCY GRIEVANCE (An emergency situation is one in which you may be subject to a substantial risk of physical harm; emergency grievances are not for ordinary problems that are not of a serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. If an Emergency, state why: \_\_\_\_\_

FOR OFFICE USE ONLY
GRV. # _____
Date Received: _____
GRV. Code #: _____

Is this Grievance concerning Medical or Mental Health Services? \_\_\_\_\_ If yes, circle one: medical or mental

**BRIEFLY** state your one complaint/concern and be specific as to the complaint, **date**, and place, name of personnel involved and how **you** were affected. (Please Print):

\_\_\_\_\_  
Inmate Signature

\_\_\_\_\_  
Date

**If you are harmed/threatened because of your use of the grievance process, report it immediately to the Warden or designee.**

**THIS SECTION TO BE FILLED OUT BY STAFF ONLY**

This form was received on \_\_\_\_\_ (date), and determined to be **Step One** and/or an Emergency Grievance \_\_\_\_ (Yes or No). This form was forwarded to medical or mental health? (Yes or No). If yes, name of the person in that department receiving this form: \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
PRINT STAFF NAME (PROBLEM SOLVER) ID Number Staff Signature Date Received

Describe action taken to resolve complaint, including **dates**: \_\_\_\_\_

\_\_\_\_\_  
Print and Sign Staff Name & Date Returned \_\_\_\_\_ Inmate Signature & Date Received \_\_\_\_\_

This form was received on \_\_\_\_\_ (date), pursuant to **Step Two**. Is it an Emergency? \_\_ (Yes or No).

Staff Who Received Step Two Grievance: \_\_\_\_\_ Date: \_\_\_\_\_

Action Taken: \_\_\_\_\_ (Forwarded to Grievance Officer/Warden/Other) Date: \_\_\_\_\_

If forwarded, provide name of person receiving this form: \_\_\_\_\_ Date: \_\_\_\_\_

-----  
**DISTRIBUTION: YELLOW & PINK** – Inmate Receipts; **BLUE**-Grievance Officer; **ORIGINAL**-Given back to Inmate after Completion of Step One and Step Two.

**Attachment II**

**ACKNOWLEDGE OR REJECTION OF UNIT LEVEL GRIEVANCE**

**Date:** \_\_\_\_\_

**To: Inmate** \_\_\_\_\_ **ADC#** \_\_\_\_\_

**From:** \_\_\_\_\_ **Title:** \_\_\_\_\_ **Grievance #** \_\_\_\_\_

Please be advised I have received your Grievance dated \_\_\_\_\_ on \_\_\_\_\_.

You should receive communication regarding the Grievance by \_\_\_\_\_ \* OR

Your grievance was rejected as non-grievable, untimely, duplicative, frivolous, or vexatious.

**CHECK ONE OF THE FOLLOWING**

\_\_\_\_\_ This Grievance will be addressed by the Warden/Center Supervisor or designee.

\_\_\_\_\_ This Grievance is of a medical nature and has been forwarded to the Health Services Administrator who will respond.

\_\_\_\_\_ This Grievance involves a mental health issue and has been forwarded to the Mental Health Supervisor who will respond.

\_\_\_\_\_ This Grievance has been determined to be an emergency, as you so indicated.

Action Taken: \_\_\_\_\_

\_\_\_\_\_ This Grievance has been determined to not be an emergency because you would not be subject to a substantial risk of personal injury or other serious irreparable harm. Your Grievance will be processed as a non-emergency.

\_\_\_\_\_ This Grievance was REJECTED because it was either non-grievable (\_\_\_\_\_), untimely, a duplicate of \_\_\_\_\_, or was frivolous or vexatious.

**B. INMATE'S APPEAL**

If you disagree with a rejection, you may appeal this decision within five working days by filling in the information requested below and mailing it to the appropriate Chief Deputy/Deputy/Assistant Director. If you do not receive communication regarding your grievance by the date listed above, you may move to the next level of the process. To do so, indicate in the Inmate's Appeal Section below that you did not receive a response and mail it to the appropriate Chief Deputy/Deputy/Assistant Director within five working days. Keep in mind that you are appealing the decision to reject the original complaint. Address only the rejection; do not list additional issues, which were not a part of your original grievance as they will not be addressed. Your appeal statement is limited to what you write in the space provided below.

\_\_\_\_\_  
Inmate Signature

\_\_\_\_\_  
ADC#

\_\_\_\_\_  
Date

If appealing a rejection, please include both the Unit Level Grievance Form (Attachment I) and the Rejection (Attachment II)

- Commented [JD31]: hellifknow
- Commented [SB32]: Haha!!
- Commented [SB33]: Where does this go?



**Attachment III**

INMATE NAME \_\_\_\_\_ ADC# \_\_\_\_\_ GRIEVANCE # \_\_\_\_\_

**WARDEN/CENTER SUPERVISOR'S DECISION**

\_\_\_\_\_  
Signature of Warden/Supervisor or Designee

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

---

**INMATE'S APPEAL**

If you are not satisfied with this response, you may appeal this decision within five working days as per policy by filling in the information requested below and mailing it to the appropriate Chief Deputy/Deputy/Assistant Director. Keep in mind that you are appealing the decision to the original complaint. Do not list additional issues, which are not a part of your original grievance, as they will not be addressed. Your appeal statement is limited to what you write in the space provided below above.

WHY DO YOU DISAGREE WITH THE ABOVE RESPONSE?

**Commented [JD34]:** Do not make these changes. Go back to the 14-16 form.

\_\_\_\_\_  
Inmate Signature

\_\_\_\_\_  
ADC#

\_\_\_\_\_  
Date

If appealing, please submit both the Unit Level Grievance Form (Attachment I) and the Warden's Decision (Attachment III)

Attachment IV

Inmate Name: \_\_\_\_\_ ADC# \_\_\_\_\_ Grievance # \_\_\_\_\_  
**HEALTH SERVICES RESPONSE TO UNIT LEVEL GRIEVANCE**

\_\_\_\_\_  
Signature of Health Services Administrator/Mental Health Supervisor or Designee & Title Date

**If follow up by Health Services Staff is required, are the details included in the response above?**  
Yes \_\_\_\_\_ or, No follow up is necessary \_\_\_\_\_

---

**INMATE'S APPEAL**

If you are not satisfied with this response, you may appeal this decision within five working days as per policy by filling in the information requested below and mailing it to the Deputy Director for Health & Correctional Programs. Keep in mind that you are appealing the decision to the original grievance. Do not list additional issues, which were not a part of your original grievance, as new issues will not be addressed. Your appeal statement is limited to what you write in the space provided above the signature line.

**Commented [JD35]:** Do Not make these changes. Go back to the 14-16 form.

\_\_\_\_\_  
Inmate Signature ADC# Date

If appealing, please submit both the Unit Level Grievance Form (Attachment I) and the Health Services Response (Attachment IV)

**Attachment V**

**Acknowledgment of Grievance Appeal, or Rejection of Appeal**

TO: Inmate \_\_\_\_\_ ADC # \_\_\_\_\_

FROM: \_\_\_\_\_ TITLE: \_\_\_\_\_

RE: Receipt of Grievance Appeal # \_\_\_\_\_ DATE: \_\_\_\_\_

Please be advised your Appeal dated \_\_\_\_\_ was received in my office on \_\_\_\_\_

You will receive communication from this office regarding this Grievance by \_\_\_\_\_,  
**OR,**

Your grievance appeal is being returned pursuant to the Administrative Directive on Inmate Grievances due to one of the following:

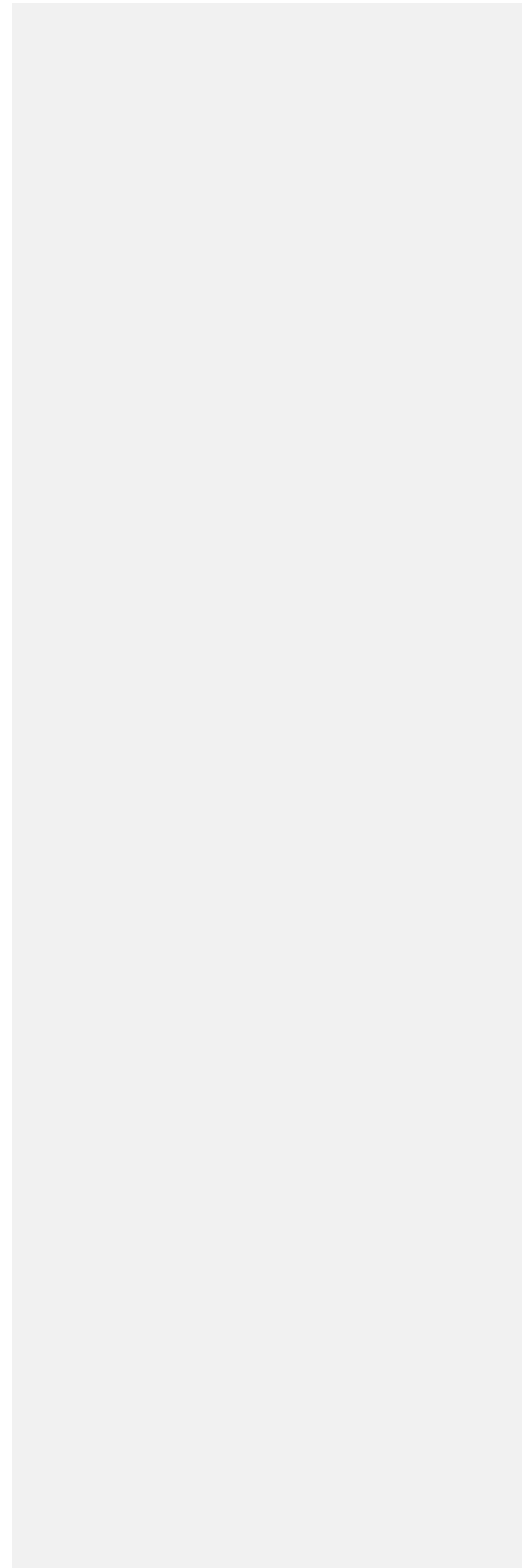
- \_\_\_\_\_ **The time allowed for appeal has expired.**
- \_\_\_\_\_ **The matter is non-grievable and does not involve retaliation.**
- \_\_\_\_\_ **Request disciplinary action against employee, contractor, or volunteer**
- \_\_\_\_\_ **Claim for monetary damage**
- \_\_\_\_\_ **Parole and/or Release matter**
- \_\_\_\_\_ **Transfer**
- \_\_\_\_\_ **Job Assignment (Unrelated to Medical Restriction)**
- \_\_\_\_\_ **Disciplinary matter**
- \_\_\_\_\_ **Matter beyond the Department's control and/or matter of State/Federal law**
- \_\_\_\_\_ **Involves an anticipated event**
- \_\_\_\_\_ **Publication**
- \_\_\_\_\_ **You did not send all the proper Attachments:**
  - \_\_\_\_\_ **Unit Level Grievance Form (Attachment I)**
  - \_\_\_\_\_ **Warden's/Center Supervisor's Decision (Attachment III); or Health Services Response (Attachment IV for Health Issues Only)**
  - \_\_\_\_\_ **Acknowledgement and/or Rejection form (Attachment II)**
  - \_\_\_\_\_ **Step Two was appropriately rejected**
  - \_\_\_\_\_ **Did not give reason for appeal in space provided for appeal**
  - \_\_\_\_\_ **Did not complete Attachment III or IV by signing your name, ADC #, and/or the date**

Commented [JD36]: Leave this in and move it up under "non-grievable"

Commented [JD37]: Leave this in and move it up under "non-grievable"

\_\_\_\_\_ **Unsanitary form (s) or documents received**

\_\_\_\_\_ This Appeal was REJECTED because it was a duplicate of \_\_\_\_\_, or was frivolous or vexatious.



**Attachment VI**

INMATE NAME \_\_\_\_\_ ADC# \_\_\_\_\_ GRIEVANCE # \_\_\_\_\_

**CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION**

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

Please be advised that if you appeal this decision to the U.S. District Court, a copy of this Chief Deputy/Deputy/Assistant Director's Decision must be attached to any petition or complaint or the Court may dismiss your case without notice. You may also be subject to paying filing fees pursuant to the Prison Litigation Act of 1995.

**Commented [JD38]:** Put this back in. No change to this form

**GRIEVANCE PROCEDURE CODES**

Attachment VII (Page 1)

Each Unit/Center is assigned a unit code as follows:

BC	Boot Camp	MC	Mississippi County Work Release	PB	Pine Bluff Unit
BOW	Bowie County	MCP	McPherson Unit	PBR	Pine Bluff Reentry Center
BU	Benton Unit	MCS	McPherson Special Needs Unit	PBW	Pine Bluff Unit Work Release
CU	Cummins Unit	MX	Maximum Security Unit	TU	Tucker Unit
CMU	Cummins Modular Unit	NC	North Central Unit	TX	Texarkana Regional Correctional Center
DR	Delta Regional Unit	OR	Ouachita River Corr. Unit SAT	VU	Varner Unit – population
EA	East Arkansas – population	Wrightsville	Satellite Unit	VSM	Varner Super Max
EAM	East Arkansas – Max Sec	SNU	ORCU Special Needs Unit	WR	Wrightsville Unit
ESU	Ester Unit	SNN	ORCU New Commitment	WHM	Wrightsville Hawkins Males
GR	Grimes Unit	SNH	ORCU Hospital		
RLW	Randall L. Williams Facility	NW	Northwest AR Work Release		
HA	Hawkins Unit				

Commented [SB39]: No longer in use.

Commented [JD40]: Put this back in. No change to this form.

Which is succeeded by the last two digits of the calendar year, followed by a five digit sequential number beginning with 00001 (i.e., CU-03-00001).

**GRIEVANCE TYPE CODES**

100	Transfer	500	Institution Operations
101	Unit Transfer	501	Food/Food Services
102	Interstate Compact	502	Commissary
200	Institutional Assignment	503	Inmate Funds
201	Cell Barracks	504	Sanitation – Showers, etc.
202	Job	505	Inmate Property Claims
203	Classification	506	Clothing – Bedding/Footwear
204	Enemy Alert List	507	Activity Rotation
205	Protective Custody	508	Living Conditions
206	Punitive	509	Working Conditions
207	Administrative Segregation	510	Grooming
208	School/Vocation Training	511	Recreation
209	Rehabilitation Programs	512	Searches
210	Counselors	513	Contraband/Confiscation Forms
211	Investigative Status – DCR	514	Alternative Meals
212	48 Hour Relief Privileges	515	Hunger Strike
300	Communication	516	Diet
301	Visits (non-legal)	600	Medical
302	Telephone	601	Denial of Treatment
303	Radio/Television/Movie	602	Harassment or Abuse
304	Interview Request	603	Records
305	Unit Policy/ADC Policy	604	Footwear/Orthotics
306	Publication	605	Sick Call – not otherwise specified
307	Mail	606	Vision
308	Marriage	607	Food/Special Diet
400	Disciplinary Matters	608	Medication/Pill Call – not otherwise Specified

## GRIEVANCE TYPE CODES

### Attachment VII (Page 2)

609	Medical Classification	707	Retaliation/Harassment – Use of the Grievance Process
610	Hearing	708	Retaliation/Harassment – Access to Courts Rights
611	Housing conditions (medical reasons)	709	Notary Services
612	Chronic Care	710	Access to Grievance Forms
613	Chronic Care not seen	711	Storage of Legal Materials
614	Chronic Care rx's not prescribed	712	Legal Mail
615	delete	713	No Response to Grievance
615	Orthopedic	714	Other Legal Matters
616	Sick Call no security escort	715	No Further Action is Necessary(NFAN)
617	Sick Call not seen timely	716	Freedom of Information Act (FOIA)
618	Sick Call referred not seen	717	Multiple Issues Grieved
619	Other	718	Welfare
620	Dental	719	Copies Made
621	Dental Prosthetics	720	Retaliation – other
622	Medical Appointments (outside not otherwise specified)	721	Loss of Property
623	Surgery		
630	Mental Health	800	Complaints Against Staff
631	Mental Health Appointments	801	Physical Abuse
632	Mental Health – Medication side effects	802	Verbal Abuse
633	Mental Health – Housing	803	Other Complaints Against Staff
640	Medication not given	900	Other
641	Medication prescribed	901	Good Time
642	OPM medications	902	Furlough
643	Medication not ordered	903	Other Complaints Against Inmates/Cellmate
644	Medication error	904	Time Computation
645	Medication pharmacy error	905	Hobby Craft
650	Co-pay	906	Religion
651	Lab	907	Parole Matters
652	X-ray	908	Discrimination (Race, Religion, Sex, etc).
653	Treatment call	909	Name Change
654	Informal resolution not answered	910	Urine Testing
655	Consults	911	Work Release
700	Legal	912	Maintenance
701	Access to courts	913	Grieving for Another Inmate
702	Indigent Inmate Supplies	914	Detainer Removed
703	Law Books/Pages	915	PREA
704	Law Library		
705	Legal Visits with Inmate		
706	Other Legal Visits		

**Attachment VIII**

The below listed inmate has filed a grievance/appeal with this office. Please give a detailed statement in regards to the issue(s) stated by the inmate in this grievance. The statement, "I have no knowledge," is not acceptable. Also, please submit any supporting documentation with your response, (i.e., disciplinary, 005's, logs, medical information, other officer and/or inmate statements, etc.).

**EMPLOYEE:** \_\_\_\_\_ **UNIT:** \_\_\_\_\_

**RE: INMATE:** \_\_\_\_\_ **ADC#** \_\_\_\_\_

**FROM:** \_\_\_\_\_ **DUE DATE:** \_\_\_\_\_

**GRIEVANCE #:** \_\_\_\_\_ **DATE & TIME OF INCIDENT** \_\_\_\_\_

Inmate's Complaint:

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**EMPLOYEE STATEMENT BELOW**

**STATEMENT:** \_\_\_\_\_

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\_\_\_\_\_  
Responding Staff Signature

\_\_\_\_\_  
Date

You are not to retaliate against this inmate in any shape, form or fashion for submitting this grievance. If you are found to have retaliated against any inmate for using the grievance procedure, you will be subject to disciplinary action, which may be a verbal warning, a written warning, and/or termination.



810-5

Attachment IX

**GRIEVANCE WAIVER**

TO: \_\_\_\_\_ DATE: \_\_\_\_\_

FROM: \_\_\_\_\_ SUBJECT: \_\_\_\_\_

I, \_\_\_\_\_, ADC# \_\_\_\_\_, do hereby agree that grievance number \_\_\_\_\_, dated \_\_\_\_\_, has been resolved/and/or, I no longer want to pursue this matter. This decision is voluntary and made without threats or coercion of any type.

\_\_\_\_\_  
Inmate Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

**GRIEVANCE EXTENSION**

**TO: Inmate** \_\_\_\_\_ **ADC#** \_\_\_\_\_

**FROM:** \_\_\_\_\_ **TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_ **GRIEVANCE #** \_\_\_\_\_

ADDITIONAL TIME IS NECESSARY IN ORDER TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

YOU WILL RECEIVE COMMUNICATION FROM THIS OFFICE BY: \_\_\_\_\_

This extension is automatic unless you specifically disagree; if you agree to the extension then no action is required on your part. If you DO NOT agree to an extension, check DISAGREE, complete the signature line and return the original to this office. If you do not agree, you understand that, with your decision, NO FURTHER ACTION will be taken on this issue, you WILL NOT have exhausted your administrative remedies, and your grievance will be returned to you without a decision regarding its merit.

Commented [JD41]: No change

\_\_\_\_\_ **DISAGREE**      **By disagreeing with this extension, I waive my right to have this grievance issue considered.**

\_\_\_\_\_ **ADC#** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**Inmate Signature**

\_\_\_\_\_ **DATE:** \_\_\_\_\_

**Warden/Center Supervisor Signature**

\_\_\_\_\_ **DATE:** \_\_\_\_\_

**Chief Deputy/Deputy/Assistant Director/Director Signature**



PO Box 8707  
Pine Bluff, AR 71611-8707  
Phone: 870-267-6999  
Fax: 870-267-6244  
www.adc.arkansas.gov

## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Inmate Grievance Procedure

**NUMBER:** 19-20

**SUPERSEDES:** 14-16

**APPLICABILITY:** All employees and inmates

**PAGE 1 of 31**

**REFERENCE:** AR 835 - Grievance Procedure for Offenders

**APPROVED:** Original signed by Wendy Kelley

**EFFECTIVE DATE 8/1/2019**

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### **I. POLICY:**

It is the policy of the Arkansas Department of Correction to provide inmates in its custody an administrative process for the resolution of complaints, problems and other issues.

### **II. EXPLANATION:**

The grievance procedure is an administrative process for the submission and resolution of inmate problems and complaints. The process is designed to solve the problem at the lowest level, as promptly as feasible, and in a manner that is fair, reasonable, and consistent with the Department of Correction's mission.

The administrative process for the resolution of complaints and identification of problem areas is intended to supplement but not replace daily and routine communication between staff and inmates.

### **III. DEFINITIONS:**

A. Informal Resolution – the first step consisting of a written complaint (Unit Level Grievance Form, Attachment I) by an inmate that is intended to allow staff the

opportunity to resolve an issue on an informal basis, and to serve as a prerequisite to the second step, a formal grievance.

- B. Grievance – the second (formal) step where a written complaint using the same form used for the Informal Resolution (Unit Level Grievance Form, Attachment I) is submitted by an inmate on the inmate’s own behalf (an inmate cannot grieve on behalf of another inmate) regarding:
1. A policy applicable within his or her unit/center of assignment that personally affects the inmate;
  2. A condition in the facility that personally affects the inmate;
  3. An action of another inmate, or inmates, that personally affects the inmate;
  4. An action of an employee(s), contractor(s), or volunteer(s) that personally affects the inmate; or
  5. An incident occurring within his or her facility that personally affects the inmate.
- C. Warden – the Warden or Center Supervisor of the facility or designee.
- D. Appeal – a written request directed to a Chief Deputy/Deputy/Assistant Director for further action to resolve the issue or complaint in the grievance based upon the inmate’s assertion that the issue has not been resolved at the Unit level. (The appeal cannot raise new or additional issues or complaints.)
- E. Working Days – Monday through Friday, excluding state observed holidays.
- F. Emergency – a problem that, if not immediately addressed, subjects the inmate to a substantial risk of personal injury or other serious and irreparable harm such as, physical abuse. If a grievance, submitted as an emergency grievance by the inmate, is deemed an emergency by the problem solver, the grievance is immediately submitted to the Warden/highest ranking supervisor at the unit without the completion of Step One, the informal process; however, if the grievance is not an Emergency, it will be processed under Step One.
- G. PREA Grievance – Grievance where inmate is alleging staff-on-inmate or inmate-on-inmate sexual abuse or sexual harassment as those terms are defined in the PREA Administrative Directive. A Problem Solver should immediately submit a suspected PREA grievance to the highest ranking supervisor at the unit, who will then contact the duty warden, without the completion of Step One, the informal process; however, if the duty warden finds that the grievance is not a PREA grievance, it will be returned to the Problem Solver and processed under Step One.

H. Non-Grievable Issues – the following matters are not grievable:

1. Parole;
2. Release;
3. Transfer;
4. Job Assignments unless in conflict with medical restrictions;
5. Disciplinary;
6. Anticipated events (i.e., events or activities which may or may not occur in the future);
7. Matters beyond the control of the Department of Correction, including issues controlled by State or Federal law or regulation;
8. Rejection of a Publication
9. A grievance submitted by an inmate on behalf of another inmate.

Note: Claims of Retaliation, even if related to an issue referenced above, are Grievable.

- I. Available Remedies –if the facts asserted by the inmate would, if true, fall within the definition of Grievance, the matter shall be investigated, unless previously investigated. If the grievance is found to be with merit, the Department official designated to respond to the grievance shall have the authority, within the exercise of his or her discretion and consistent with the Department policies and the safety, security and good order of the facility, to offer actions by the Department designed to resolve the inmate’s grievance. However, such available remedies do not include disciplinary action against an employee, contractor, or volunteer, nor monetary damages.
- J. Problem Solver – staff designated at each facility to serve as a contact for resolution of a problem or complaint, and specifically, to resolve Step One issues raised in this process. A list of these individuals will be posted in each housing unit. If the Problem Solver(s) is not available, any staff member of the rank of sergeant or above can collect Step One grievances (also referred to as “informal”) and shall then act as the Problem Solver for that Step One grievance.
- K. Medical Department – Health Services Administrator (HSA) or designee.
- L. Mental Health Supervisor – the Department of Correction employee supervising the mental health staff and programs at the unit level.

**IV. PROCEDURES:**

The inmate grievance procedure is an internal administrative process for the resolution of complaints and the identification of potentially problematic management areas; however, it does not replace daily and routine communication between inmates and staff. Prior to filing a formal grievance (Step Two), an

inmate must first seek a resolution of the complaint informally by taking Step One under this policy.

One form (Attachment I) will be used for both Step One (informal resolution) and Step Two (formal grievance). This same form will be used to submit all inmate grievance issues, including emergencies.

#### A. Proposed Changes to the Procedure

When the Department proposes to adopt changes to any policy which affects the inmate grievance process, the proposed changes shall be posted in prominent locations **(to include employee and inmate bulletin boards and including electronic distribution) throughout the institution at least 30 days prior to the adoption of the changes.** All comments shall be considered prior to adoption of the change and shall be kept as part of the appropriate policy file documentation. **Inmates in Restrictive Housing will be provided a copy of the proposed change by the Grievance Officer at least 30 days prior to the adoption of the change.**

#### B. Communication of Procedure

1. Written notification of the Inmate Grievance Procedure, and any changes there to, will be distributed to both inmates and employees. In addition, arriving inmates and new employees will have an opportunity to ask questions about the procedure and have them answered verbally.
2. If an inmate has a disability affecting communication or is not fluent in the English language, interpretive or explanatory services will be made available.
3. All employees at the facility level shall receive training by designated staff in the skills necessary to assist or participate in the inmate grievance procedure.
4. A summary of the Inmate Grievance Procedure will be included in the Inmate Handbook. However, the Inmate Grievance procedure is governed by this Administrative Directive and not any summary in the Inmate Handbook. All inmates shall be provided access to this Administrative Directive.

#### C. Accessibility

Each inmate shall be entitled to utilize the Inmate Grievance Procedure regardless of his or her security status, custody level, job classification, disciplinary status, or any administrative/ judicial decisions affecting the inmate.

1. Copies of this policy shall be available for examination in each Unit's Law Library.
2. The Attachment I grievance form shall be readily available to any inmate in any housing area at any time; however, no more than five (5) forms per week, except in the case of an emergency as defined in this policy, may be requested by an individual inmate. Additionally, an inmate may not have more than ten (10) blank Attachment I grievance forms in his or her possession at any one time, and no more than twenty (20) unsubmitted (not signed by a Problem Solver) Attachment I grievance forms in his or her possession at any one time.
3. An inmate may request one copy of his or her grievance from the facility grievance staff upon presenting a completed Section 1983 lawsuit or Claims Commission claim. The inmate must provide the grievance number for the particular grievance he/she is requesting.
4. A Grievance must specifically name each individual involved in order that a proper investigation and response may be completed. An inmate must fully exhaust the grievance procedure as a prerequisite to pursuing any legal action related to the subject matter of the grievance. All inmates are hereby advised that the Department reserves the right to raise any and all defenses, including the failure to exhaust the grievance procedure, as to any claim which may have been subject to the grievance procedure and as to any person or entity.

An inmate who fails to name all parties during the grievance process may have his or her lawsuit or claim dismissed by the court or commission for failure to exhaust against all parties.

#### D. Completion of Forms

1. Inmates who have difficulty understanding how to complete the grievance forms or difficulty actually completing the forms should request and will be provided with assistance from staff. However, there is no prohibition against an inmate seeking assistance from another inmate if the grievant has language barriers or cannot read or write.
2. Only one Unit Level Grievance Form (Attachment I) can be submitted per grievance and only one problem/issue should be stated in the grievance, not multiple problems/issues. An inmate must use a separate form for each issue. Only one issue will be addressed in the response to a grievance. Additional problems/issues contained in the grievance will not be addressed and will not be considered as exhausted. Inmates are reminded that exhaustion of an issue is a prerequisite to filing a lawsuit related to that issue in accordance with the Prison Litigation Reform Act of 1995.

3. If the inmate is legally using a name other than the name under which he or she was committed to the Arkansas Department of Correction, both the legal and commitment names shall be used when completing the forms.
4. All forms, except those submitted electronically where and when electronic submission is available, must be legible and in ink, if available. Tape and other adhesive substances should not be used on any grievance forms.
5. If any Grievance Form is received in an unsanitary condition, that form(s) may be photographed and logged and held for evidence for appropriate disciplinary action against the inmate. Unsanitary grievance forms will not be accepted. The Problem Solver will return the grievance form to the inmate and then complete an Incident Report (Form 005).

#### E. Step One: Informal Resolution Procedure

Inmates are required to seek an informal resolution of a problem/complaint prior to filing a grievance.

1. The Unit Level Grievance Form (Attachment I) shall be completed and submitted within 15 days after the occurrence of the incident, with the date indicated beside "Step 1: Informal Resolution". PREA grievances are not subject to the 15 day time limit.
2. On the Unit Level Grievance Form (Attachment I), and only in the space provided, the inmate should write a brief statement that is specific as to the substance of the issue or complaint to include the date, place, personnel involved or witnesses, and how the policy or incident affected the inmate submitting the form. Illegible or unintelligible grievances will not be accepted, but rather will be returned to the inmate by the Problem Solver with an explanation stating why the grievance will not be accepted. The Problem Solver will then complete an Incident report (Form 005).

Additional sheets, including additional pages of the grievance written on Unit Level Grievance Forms (Attachment I) should not be attached and will be returned to the inmate upon submission or as soon as practical. **ONLY THE STATEMENT IN THE SPACE PROVIDED ON THE ATTACHMENT I FORM WILL BE MAINTAINED AND CONSIDERED THE GRIEVANCE SUBMISSION.** However, additional sheets attached to PREA grievances will be maintained with the grievance.

3. The Unit Level Grievance Form (Attachment I) should be presented to one of the individuals whose name is posted in the housing unit as a designated Problem Solver. If a Problem Solver is not available, any staff



member holding the rank of sergeant or above can collect a Step One grievance and shall then act as the Problem- Solver for that Step One grievance. If it is a PREA grievance, any staff member may act as the problem solver. At this time, the Problem Solver or staff member must sign and date the form, giving the inmate back the yellow and pink copies as receipts.

4. After receipt of the Unit Level Grievance Form (Attachment I), the Problem Solver will:
  - a. meet with the inmate within three working days to resolve the issue; or
  - b. meet with the inmate immediately to resolve the issue if it is an emergency; or
  - c. refer medical issues to the HSA (examples include, but are not limited to, missed medications, inability to access medical services, failure to be seen at Sick Call or clinic appointments, or failure to receive lab or test results) as soon as practical, but in any event within one working day; or
  - d. refer mental health issues to the Mental Health Supervisor as soon as practical, but in any event within one working day; or
  - e. If the grievance is a PREA grievance, immediately notify the highest ranking officer at the unit or Duty Warden who will immediately cause the initiation of an investigation.
5. If the inmate believes the matter to be an Emergency, as defined in this Administrative Directive, he/she will fill in the date beside “Emergency Grievance” on the Unit Level Grievance Form to designate the grievance as an Emergency, and present the form to any staff member, but preferably a designated Problem Solver. If that staff recipient determines that an Emergency does exist, corrective action shall be taken as soon as possible and within no more than twenty-four (24) hours. If the staff recipient determines that no Emergency exists, the informal resolution form shall be processed within the normal time limits stated within this policy.
6. Upon receipt of a Unit Level Grievance Form submitted under Step One, the HSA, or medical department representative appointed by the HSA, or the Mental Health Supervisor will take whatever action is deemed clinically appropriate to fully resolve the problem, document the action taken, or state why no action is necessary or appropriate. The HSA or Mental Health Supervisor or designee will sign the form in the space provided for the staff signature which is found on the same line as the inmate signature following the description of the action taken to resolve the complaint. Please note the staff signature should NOT be in the space provided for the signature of the designated Problem Solver.

7. As soon as practical, the HSA, Mental Health Supervisor, or designee will return the Unit Level Grievance Form to the inmate, and provide a copy to the Grievance Officer. NOTE: In no event should this period exceed three (3) working days from submission of the Unit Level Grievance Form for Step One by the inmate to the Problem Solver. The HSA, Mental Health Supervisor, or designee should not respond to a grievance that is alleging misconduct by that individual against the inmate; however, where the inmate still has another step in the grievance process to challenge the conduct or the inmate is alleging indirect misconduct (failure to act) as opposed to direct misconduct, such as physical abuse or retaliation, by the HSA or the Mental Health Supervisor, then the Regional Manager or Mental Health Administrator will respond after the medical or mental health department has appropriately logged the resolution.
8. The HSA or Mental Health Supervisor will retain a copy for his or her records and for quality improvement purposes.
9. If the problem (those not referred to medical or mental health departments) can be resolved at the informal level, the Problem Solver should document the action taken on the Unit Level Grievance Form (Attachment I) and then both the inmate and the Problem Solver must sign and date the form.
10. If the problem cannot be resolved at Step One, the informal level, the Problem Solver must still document the resolution attempt on Attachment I, and then the inmate and the Problem Solver must sign and date the form. At this time, if the inmate chooses, he/she may now proceed to Step Two (the formal grievance) using this same form (Attachment I). See procedures for Step Two below.
11. If the designated Problem Solver (or substituted person to resolve the issue such as a medical or mental health staff member) has failed to contact the inmate and attempt resolution of the complaint or failed to return Step One (the grievance) within the designated three working days, the inmate may proceed to Step Two, the formal grievance, without the completion of Step One. In that instance, Step Two, the formal grievance, must be filed no later than six (6) working days from the original submission of the Unit Level Grievance Form pursuant to Step One: this allows three (3) working days to wait for a response to Step One, and three (3) working days to initiate Step Two. (These are not three (3) additional days, i.e., if the Problem Solver returns Step One on the day it was submitted, the inmate has only three (3) working days from receipt of that response to file Step Two.) The inmate will submit a copy of his/her Unit Level Grievance Form using the pink or yellow copy, whichever is most legible, that he/she retained following the instructions for Step Two.

12. Whether or not the problem is resolved, the inmate should retain either the pink or yellow copy, whichever he did not submit for Step Two. A copy may be retained by the designated Problem Solver, and a copy is forwarded to the Grievance Officer for entry into the offender tracking system if necessary.
13. If an inmate has been transferred from the Unit where the incident or issue arose within the fifteen (15) days allowed to file Step One and the inmate submits Step One at a different Unit, and if the Problem Solver, HSA, or Mental Health Supervisor cannot address the issue because of the transfer, then the response to Step One should be "proceed to Step Two." Upon submission of Step Two, the Grievance Officer will complete the portion of the Unit Level Grievance Form indicating the date received and to whom it was sent and immediately forward the grievance to the Grievance Officer at the unit where the incident or issue arose to process with a grievance number from that Unit. The deadlines will remain the same under this procedure to submit the grievance steps, and to respond with the date of submission to the first Grievance Officer beginning the response time.

#### F. Step Two: the Formal Grievance Procedure

After attempting to resolve the issue through Step One, informal resolution, an inmate can proceed to Step Two by filing a formal grievance on the same Unit Level Grievance Form (Attachment I) that was used for Step One.

1. The inmate should complete the date beside "Step Two: Formal Grievance" and the section regarding resubmission (of this form) including an explanation why the inmate considers the informal resolution unsuccessful, and deposit it into the designated grievance box, or submit it to a Staff Member if the inmate's assignment prevents access to the grievance box. The Grievance Officer shall collect grievance forms daily, excluding weekends and holidays.
2. Additional sheets cannot be attached to the Unit Level Grievance Form (unless it is a PREA grievance) and only information in the space provided will be considered part of the grievance submission. Any new issues added to the form will not be considered.
3. Upon receipt, the Grievance Officer shall complete the box "for office use only" on the Unit Level Grievance form by assigning a number to the grievance (using unit and subject codes as described in the Grievance Procedure Codes-Attachment VII), and logging the date the grievance was received, inmate's name, ADC number, type of grievance, and the text of the inmate's complaint contained within the appropriate space on Attachment I in eOMIS.

- a. All medical issues will be coded 600 by the Unit Grievance Officer. All mental health issues will be coded 630.
  - b. The Medical and Mental Health Departments will assign more specific type codes as indicated on Attachment VII into eOMIS when completing the response to the grievance.
4. The Grievance Officer shall then transmit an Acknowledgement or Rejection of the Unit Level Grievance Form (see Attachment II) to the inmate within five (5) working days after receipt. No acknowledgment is required if a written response to the grievance, signed by the Warden, Health Services Administrator, or Mental Health Supervisor or designees, can be provided within five (5) working days.
5. The Grievance Officer will note whether the grievance is medical or mental health related. Such Step Two medical or mental health grievances will be forwarded as soon as possible, and in no event later than five (5) days, to the appropriate medical or mental health department for investigation and response to the inmate.
  - a. If the grievance is medical in nature, it is forwarded to the Health Services Administrator (HSA) at the Unit Medical Department for a response. The HSA, or designee, should not respond to a grievance that is alleging misconduct by that individual unless the inmate still has another step in the grievance process to challenge the conduct, or the inmate is alleging indirect misconduct (failure to act). Where the inmate is alleging direct misconduct (such as physical abuse or retaliation) by the HSA, then the appropriate Regional Manager will respond after the medical department has appropriately logged the resolution.
  - b. If the grievance relates to mental health services, the supervisor of mental health services for the facility, or designee, will answer the grievance. The Mental Health Supervisor, or designee, should not respond to a grievance that is alleging misconduct by that individual unless the inmate still has another step in the grievance process to challenge the conduct, or the inmate is alleging indirect misconduct (failure to act). Where the inmate is alleging direct misconduct (physical abuse or retaliation) by the Mental Health Supervisor, then the Mental Health Administrator at Central Office will respond after the mental health department has appropriately logged the resolution.
6. The Inmate Grievance Worksheet (see Attachment VIII) may be used by staff when investigating grievances.

7. Every inmate grievant shall receive a written or electronic response to his or her grievance within 20 working days of receipt (or more promptly in the case of an Emergency grievance). The response will be on the form entitled Warden/Center Supervisor Decision (Attachment III), and signed by the Warden or the Warden's designee. In the case of a medical or mental health grievance, the response will be on the form entitled Health Services Response to Unit Level Grievance (see Attachment IV) from the medical or mental health department.

The Unit Level Grievance Response/Decision shall include:

- a. the reason for the decision, in clear, well reasoned terms; and
  - b. a statement that the Grievance:
    - has merit and requires further action for resolution; or
    - has merit, but is being resolved; or
    - had merit but has been resolved; or
    - has no merit.
8. The Grievance Officer will meet with the Warden for the appropriate response to the grievance. If the Warden refers a PREA investigation to IAD, the grievance response is sent after the Warden receives the Director's disposition of suspected PREA allegation.
  9. If an inmate has not received a response to his/her Unit Level Grievance within the allotted time frame as stated on the Acknowledgement Form or the Extension Form, if applicable, the inmate may move to the next level of the process, an appeal to the Chief Deputy/Deputy/Assistant Director Level. In this instance, the appeal must be filed no later than five (5) working days.

The Grievance Extension Form will be used in cases where a longer period is required for a response to or resolution of the problem. The inmate shall be notified by the responding authority, in writing, of the reason for the delay and its expected length on the Grievance Extension Form (see Attachment X). Time limits for responding will be extended automatically upon the completion of the Grievance Extension Form (Attachment X), unless the inmate disagrees in writing to the extension. If the inmate does not agree to the extension, the inmate understands and agrees that, with that decision, no further action will be taken on the issue, and the grievance will be returned to the inmate without a decision on its merit. By disagreeing with the extension, the inmate waives his or her right to have the grievance issue considered. If a second or additional extension is needed, the extension will be granted only upon approval of the Warden or Deputy Warden at the Step Two level.

### G. Steps to Appeal the Unit Level Grievance Decision:

After receiving a response from the Warden, the Health Services Administrator (HSA), the Mental Health Supervisor, or applicable designee, if the inmate is not satisfied, he or she may appeal to the appropriate Chief Deputy/Deputy/Assistant Director who will attempt to resolve the matter or assign an appropriate staff member to do so. In this instance, the appeal must be filed within the five (5) working days from the date of the response.

1. The appeal must be written in the space provided above the signature line on the original Warden/Center Supervisor's Decision Form (Attachment III), the Health Services Response to Unit Level Grievance Form (Attachment IV) for medical or mental health grievances entitled Inmate's Appeal (see Attachment III and IV), or the Acknowledgement or Rejection of Unit Level Grievance (Attachment II). Only what is written in the space provided above the signature line for appeal will be considered part of the grievance appeal. Except for a PREA grievance, additional sheets should not be attached and will be returned to the inmate upon receipt of the appeal or as soon as practical. **ONLY THE STATEMENT IN THE SPACE PROVIDED ABOVE THE SIGNATURE LINE WILL BE MAINTAINED AND CONSIDERED PART OF THE APPEAL SUBMISSION.**
2. To appeal the inmate must include the original (no photocopies) Unit Level Grievance Form (Attachment I), which describes the matter originally grieved, and either the Warden/Center Supervisor Decision Form (Attachment III), the Health Services Response to Unit Level Grievance (Attachment IV), or the Acknowledgement or Rejection of Unit Level Grievance (Attachment II) if the inmate is asserting the grievance was improperly rejected or if the inmate did not receive a response or extension within the applicable timeframe. The inmate should deposit the appeal into the designated grievance box; or submit it to a Staff Member if the inmate's assignment prevents access to the grievance box. If these two (2) pages are not submitted with the inmate's appeal portion completed, the appeal may be returned to the inmate as rejected.

To complete the appeal, the inmate must state a reason for the appeal, and must date, sign, and write the inmate's ADC number on the attachment being appealed.

Do not list additional issues, requests, or names which were not a part of the original grievance, as those will not be addressed.

3. The Chief Deputy/Deputy/Assistant Director may process a grievance appeal not meeting the criteria set forth above when necessary for the

safety and security of the Department

4. Appeals relating to medical, mental health or treatment program issues are submitted to the Deputy Director for Health and Correctional Programs.

All other grievances will be forwarded to the appropriate Chief Deputy/Deputy/Assistant Director for Institutions.

All Appeals will be answered by the Chief Deputy/Deputy/Assistant Director regardless of whether those individuals are named in the grievance.

5. Receipt of the appeal shall be acknowledged or rejected within five (5) working days unless a response can be provided within five (5) working days to the grievance signed by the Chief Deputy/Deputy/Assistant Director. The response shall be in written or electronic format.
6. The Chief Deputy/Deputy/Assistant Director will respond to the inmate concerning the decision within thirty (30) working days unless there is an extension or the appeal is rejected and the inmate is notified of the reason for rejection on the Acknowledgment of Grievance Appeal/Rejection of Appeal form (see Attachment V). A decision or rejection of an appeal at this level is the end of the grievance process. The response shall be in written format.
7. If a grievance appealed is a duplicate of one previously appealed by the inmate with regard to the staff member named, the date of the incident, and the subject of the grievance, the inmate will be sent an Acknowledgment of Grievance Appeal/Rejection on Attachment V, and it will be noted as "Duplicate of \_\_\_\_\_" and the earlier grievance number will be filled in the blank; the duplicate will be returned to the inmate with the Attachment V.
8. The Grievance Extension Form will be used in cases where a longer period is required for a response or resolution of the problem. The inmate shall be notified by the responding authority, in writing, of the reason for the delay and its expected length on the Grievance Extension Form (see Attachment X). Time limits for responding will be extended automatically upon completion of the Grievance Extension Form (Attachment X), unless the inmate disagrees in writing to the extension. If the inmate does not agree to the extension, the inmate understands and agrees that, with that decision, no further action will be taken on the issue, and the grievance appeal will be returned to the inmate without a decision on its merit. By disagreeing with the extension, the inmate waives his or her right to have the grievance issue considered or exhausted. A second or subsequent

extension can be granted only with the approval of the Chief Deputy/Deputy/Assistant Director. .

9. The entire grievance procedure should be completed within seventy-six (76) working days unless a valid extension has been executed, or it can be documented that unforeseen circumstances have occurred.
10. Release of the inmate from custody will normally terminate his or her grievance, unless the parties are under court order to exhaust remedies or the grievance highlights a problem that needs to be addressed at the discretion of the Chief Deputy/Deputy/Assistant Director, or designee.

#### H. Remedies

A grievance with merit will be afforded a reasonable range of meaningful remedies.

1. The responsible authority will review the conditions, policies or practices grieved and take appropriate action.
2. When a higher authority than the responding authority must authorize appropriate action, the lower authority shall note its agreement or disagreement with the inmate and transmit the completed grievance form to the higher authority with notice to the inmate.
3. The Department is to encourage the resolution of grievances found to have merit involving property losses, confiscations or forfeitures through the return of the property or replacement.
4. Errors in record keeping may be corrected and action by the staff or Classification Committees may be modified as appropriate.
5. No grievance should be discussed between or among employees and inmates except as necessary to obtain statements or to resolve the issues.
6. No employee should respond to a grievance that is alleging misconduct by that employee against the inmate unless (a) the inmate still has another step in the grievance process to challenge the conduct, or (b) the inmate's allegation was of indirect misconduct (conduct by omission). Where the inmate is alleging direct misconduct (such as physical abuse) by the employee, the employee shall not respond to the grievance. No employee may respond to a grievance that is alleging sexual harassment or sexual abuse by that employee against the inmate.



## I. Allegations of Abuse

Any credible allegation of excessive force, sexual harassment or abuse, assault, or similar physical abuse of an inmate will be forwarded to the Internal Affairs Division for an investigation consistent with Arkansas Department of Correction policies.

## J. Abuse of the Grievance Procedure

Abuse of the grievance procedure by inmates will be dealt with in the following manner:

1. Excessive Use of the Procedure
  - a. Step One, Informal Resolutions, are limited to five (5) per seven-day period because excessive submissions may cause a delay in processing inmate grievances. The Warden or designee must maintain a record of five (5) submissions each seven-day period before rejecting one from that inmate. Only the first five (5) informal grievances, Step One, will require a response. The seven-day period will begin each Saturday and end on Friday. The submissions that exceed the limit will be marked as "No action necessary-exceeds weekly limit," followed by the staff person's name, signature and date verifying that person verified (1) that five (5) submissions under Step One had already been received from the inmate that seven-day period, and (2) it was not an emergency. A submission rejected under this section shall be returned to the inmate.
  - b. Inmates are only allowed to submit three formal grievances, Step Two, each seven-day period which begins each Saturday and ends on Friday. Only the first three formal grievances, Step Two, submitted each seven-day period by an inmate require an investigation and response. This limit includes both institutional and medical or mental health grievances. All other formal grievances will be logged and reviewed to determine if an emergency exists. If it is determined to be an emergency, action will be taken promptly to resolve the issue; however, a written response to the inmate is not required. If no emergency exists, the grievance will be logged out on the same day received, and it shall be written on the Unit Level Grievance Form "No action necessary-exceeds weekly limit," dated and signed. The original grievance will then be placed in the grievance file and no written response will be given to the inmate.

- c. If the formal grievance is regarding a health issue, but exceeds the inmate's limit for weekly submission, the grievance officer will note at the top of the grievance form "EXCEEDS WEEKLY LIMIT." The formal grievance will then be forwarded to the medical or mental health department to determine if an emergency exists. If the medical or mental health departments determine the grievance to be an emergency, the Health Services Administrator or Mental Health Supervisor will ensure that prompt action is taken to resolve the issue; however, a written response to the inmate is not required. If neither the medical nor mental health departments determine the grievance to be an emergency, it will be noted at the top of the grievance form, "not an emergency" beside the "EXCEEDS WEEKLY LIMIT" statement, dated and signed by the Health Services Administrator or Mental Health Supervisor and returned to the Grievance Officer for filing.
- d. If a formal grievance is a duplicate of one previously submitted by the inmate with regard to the staff member named, the date of the incident, and the subject of the grievance, the duplicate grievance will be logged into eOMIS, the inmate will be sent a Rejection of Grievance on Attachment II, and note at the top of the grievance form as "Duplicate of \_\_\_\_\_" and the earlier grievance number will be filled in the blank; the duplicate will be returned to the inmate with the Attachment II and counted as one of the inmate's weekly submissions.
- e. If the duplicate grievance is regarding a health issue, the grievance officer will forward the logged grievance and Rejection of Grievance Attachment II to medical or mental health to determine if a response is necessary or an emergency exists. If necessary, the Health Services Administrator or Mental Health Supervisor will ensure that prompt action is taken to resolve the issue, and if not, the medical or mental health staff will note at the top, "no response necessary on duplicate," date and sign it, and return both the grievance and Rejection of Grievance Attachment II to the inmate.

## 2. Frivolous and Vexatious (Provoking or Harassing) Use of the Procedure

- a. A frivolous or vexatious submission at any step will be logged and returned to the inmate with a Rejection form (Attachment II or Attachment V) and counted as one of the inmate's weekly submissions.
- b. A submission is frivolous when it is clearly insufficient on its face to allege an issue or concern and is readily recognizable as devoid of merit and insufficient for resolution or appeal.

- c. A submission is vexatious when it merely agitates, provokes, harasses or irritates by petty provocation and is not designed to lead to any practical result, resolution, or appeal.

### 3. Use of Threats

An inmate who use the grievance procedure to direct threats at another will have the grievance rejected and copies will be referred to Internal Affairs to consider for referral for prosecution.

### 4. Malicious Use of the Procedure

Any inmate who knowingly makes false statements in a submission for the purpose of harming another person will have the grievance rejected.

## K. Reprisals or Retaliation

1. No inmate shall suffer any threat or action based on his or her appropriate use of, or participation in, the grievance procedure. If an inmate believes he/she has been retaliated against for the use of the grievance procedure, he/she must contact the Warden/Center Supervisor or in a case of alleged retaliation by the Warden/Center Supervisor, the inmate shall contact the appropriate Chief Deputy/Deputy/Assistant Director. Regardless, the inmate must exhaust their remedies through the grievance process.
2. Any reprisal or retaliation by staff is absolutely prohibited and will be dealt with in accordance with the appropriate policy regarding employee conduct and discipline. All personnel shall receive written and oral notice that formal and/or informal reprisals will not be tolerated.

The Training Academy has implemented a training program regarding inmate problem resolutions and complaints. The training is mandatory for all staff involved in the inmate grievance process.

3. Once an inmate initiates the grievance process, the process shall be followed through all stages without interference by administrators or employees of the department. Anytime an inmate voluntarily decides to withdraw a grievance, he or she must submit a Grievance Waiver Form (see Attachment IX). The appropriate staff will verify receipt of the waiver in writing.
4. If reprisal or retaliation is suspected or determined after the unit/center investigation, the grievance shall be forwarded to Internal Affairs for further review with all relevant documentation.

#### L. Records

1. Each designated administrator at each level of response shall collect and systematically maintain records regarding the filing and disposition of grievances. These records will be maintained pursuant to the Department's record retention policy in either hard copy or in a retrievable form, as well as in the inmate's electronic record, and shall be available for inspection as required by law.
2. At a minimum, such records shall include aggregate information regarding the numbers, types and disposition of grievances, as well as individual records of the dates and reasons for each disposition at the formal grievance (Step Two) and appeal stages of the procedure and shall be logged in the electronic offender records system. Such records shall be preserved in accordance with the policy regarding records retention.
3. Records regarding the participation of an individual in grievance proceedings shall not be available for review by any inmate other than the grievant.
4. Grievance records, including statements and testimony provided during the process, are confidential and are not available to inmates. Department personnel other than those directly involved in the grievance process may not have access to the information, unless the person's job requires access to such records.
5. Except as otherwise provided by Arkansas law, grievance records will not be available to non-departmental personnel other than those representing the Department of Correction or providing services such as imaging or destruction of records under an agreement with the Department of Correction.
6. No entries concerning grievances, or an inmate's participation in a grievance proceeding through testimony or submission of evidence, shall be recorded in the inmate's paper institutional file.
7. Only those positions authorized by the appropriate Chief Deputy/Deputy/Assistant Director will have access to the Grievance Tracking Program.

#### M. Evaluation

1. Monthly, quarterly and annual reports may be generated from the tracking system.
2. Records of staff efforts at problem solving may be considered by supervisors

evaluating the performance of staff.

#### N. Prison Litigation Reform Act Notice

Inmates are hereby advised that they must exhaust their administrative remedies as to all defendants at all levels of the grievance procedure before filing a Section 1983 lawsuit or Claims Commission claim. If this is not done, the lawsuit or claim may be summarily dismissed.

Inmates must attach a copy of the Chief Deputy/Deputy/Assistant Director's response to any petition or complaint; otherwise, the court or commission may dismiss the case.

Inmates are also advised that they shall be subject to paying filing fees in Federal Court pursuant to the Prison Litigation Reform Act.

#### V. **REFERENCES:**

Prison Litigation Reform Act  
Prison Rape Elimination Act

#### VI. **ATTACHMENTS:**

Attachment I – Unit Level Grievance (Informal Resolution/Formal Grievance/Emergency Grievance)  
Attachment II – Acknowledgment of Unit Level Grievance  
Attachment III – Warden/Center Supervisor's Decision/Inmate Appeal  
Attachment IV – Health Services Response to Unit Level Grievance  
Attachment V – Acknowledgment of Grievance Appeal/Rejection of Appeal  
Attachment VI – Chief Deputy/Deputy/Assistant Director's Decision  
Attachment VII – Grievance Codes  
Attachment VIII – Inmate Grievance Investigation Worksheet  
Attachment IX – Grievance Waiver  
Attachment X – Grievance Extension

**UNIT LEVEL GRIEVANCE FORM**

**Attachment I**

Unit/Center \_\_\_\_\_

Name \_\_\_\_\_

ADC# \_\_\_\_\_ Brks # \_\_\_\_\_ Job Assignment \_\_\_\_\_

\_\_\_\_\_ (Date) STEP ONE: Informal Resolution

\_\_\_\_\_ (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

If the issue was not resolved during Step One, state why: \_\_\_\_\_

\_\_\_\_\_ (Date) EMERGENCY GRIEVANCE (An emergency situation is one in which you may be subject to a substantial risk of physical harm; emergency grievances are not for ordinary problems that are not of a serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. If an Emergency, state why: \_\_\_\_\_

Is this Grievance concerning Medical or Mental Health Services? \_\_\_\_\_ If yes, circle one: medical or mental **BRIEFLY** state your one complaint/concern and be specific as to the complaint, **date**, and place, name of personnel involved and how **you** were affected. (Please Print): \_\_\_\_\_

\_\_\_\_\_  
Inmate Signature

\_\_\_\_\_  
Date

**If you are harmed/threatened because of your use of the grievance process, report it immediately to the Warden or designee.**

**THIS SECTION TO BE FILLED OUT BY STAFF ONLY**

This form was received on \_\_\_\_\_ (date), and determined to be **Step One** and/or an Emergency Grievance \_\_\_ (Yes or No). This form was forwarded to medical or mental health? (Yes or No). If yes, name of the person in that department receiving this form: \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
PRINT STAFF NAME (PROBLEM SOLVER)

\_\_\_\_\_  
ID Number

\_\_\_\_\_  
Staff Signature

\_\_\_\_\_  
Date Received

Describe action taken to resolve complaint, including **dates**: \_\_\_\_\_

\_\_\_\_\_  
Print and Sign Staff Name & Date Returned

\_\_\_\_\_  
Inmate Signature & Date Received

This form was received on \_\_\_\_\_ (date), pursuant to **Step Two**. Is it an Emergency? \_\_\_ (Yes or No).

Staff Who Received Step Two Grievance: \_\_\_\_\_ Date: \_\_\_\_\_

Action Taken: \_\_\_\_\_ (Forwarded to Grievance Officer/Warden/Other) Date: \_\_\_\_\_

If forwarded, provide name of person receiving this form: \_\_\_\_\_ Date: \_\_\_\_\_

**DISTRIBUTION: YELLOW & PINK** – Inmate Receipts; **BLUE**-Grievance Officer; **ORIGINAL**-Given back to Inmate after Completion of Step One and Step Two.

FOR OFFICE USE ONLY
GRV. # _____
Date Received: _____
GRV. Code #: _____

**ACKNOWLEDGE OR REJECTION OF UNIT LEVEL GRIEVANCE**

Date: \_\_\_\_\_

To: Inmate \_\_\_\_\_ ADC# \_\_\_\_\_

From: \_\_\_\_\_ Title: \_\_\_\_\_ Grievance # \_\_\_\_\_

Please be advised I have received your Grievance dated \_\_\_\_\_ on \_\_\_\_\_.

You should receive communication regarding the Grievance by \_\_\_\_\_ \* OR

Your grievance was rejected as non-grievable, untimely, duplicative, frivolous, or vexatious.

**CHECK ONE OF THE FOLLOWING**

\_\_\_\_\_ This Grievance will be addressed by the Warden/Center Supervisor or designee.

\_\_\_\_\_ This Grievance is of a medical nature and has been forwarded to the Health Services Administrator who will respond.

\_\_\_\_\_ This Grievance involves a mental health issue and has been forwarded to the Mental Health Supervisor who will respond.

\_\_\_\_\_ This Grievance has been determined to be an emergency, as you so indicated.

Action Taken: \_\_\_\_\_

\_\_\_\_\_ This Grievance has been determined to not be an emergency because you would not be subject to a substantial risk of personal injury or other serious irreparable harm. Your Grievance will be processed as a non-emergency.

\_\_\_\_\_ This Grievance was REJECTED because it was either non-grievable (\_\_\_\_\_), untimely, a duplicate of \_\_\_\_\_, or was frivolous or vexatious.

**B. INMATE'S APPEAL**

If you disagree with a rejection, you may appeal this decision within five working days by filling in the information requested below and mailing it to the appropriate Chief Deputy/Deputy/Assistant Director. If you do not receive communication regarding your grievance by the date listed above, you may move to the next level of the process. To do so, indicate in the Inmate's Appeal Section below that you did not receive a response and mail it to the appropriate Chief Deputy/Deputy/Assistant Director within five working days \*. Keep in mind that you are appealing the decision to reject the original complaint. Address only the rejection; do not list additional issues, which were not a part of your original grievance as they will not be addressed. Your appeal statement is limited to what you write in the space provided below.

\_\_\_\_\_  
Inmate Signature

\_\_\_\_\_  
ADC#

\_\_\_\_\_  
Date

If appealing a rejection, please include both the Unit Level Grievance Form (Attachment I) and the Rejection (Attachment II)

**Attachment III**

INMATE NAME \_\_\_\_\_ ADC# \_\_\_\_\_ GRIEVANCE # \_\_\_\_\_

**WARDEN/CENTER SUPERVISOR'S DECISION**

\_\_\_\_\_  
Signature of Warden/Supervisor or Designee

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

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**INMATE'S APPEAL**

If you are not satisfied with this response, you may appeal this decision within five working days as per policy by filling in the information requested below and mailing it to the appropriate Chief Deputy/Deputy/Assistant Director. Keep in mind that you are appealing the decision to the original complaint. Do not list additional issues, which are not a part of your original grievance, as they will not be addressed. Your appeal statement is limited to what you write in the space provided below above.

**WHY DO YOU DISAGREE WITH THE ABOVE RESPONSE?**

\_\_\_\_\_  
Inmate Signature

\_\_\_\_\_  
ADC#

\_\_\_\_\_  
Date

If appealing, please submit both the Unit Level Grievance Form (Attachment I) and the Warden's Decision (Attachment III)



Inmate Name: \_\_\_\_\_ ADC# \_\_\_\_\_ Grievance # \_\_\_\_\_  
**HEALTH SERVICES RESPONSE TO UNIT LEVEL GRIEVANCE**

\_\_\_\_\_  
Signature of Health Services Administrator/Mental Health Supervisor or Designee & Title

\_\_\_\_\_  
Date

**If follow up by Health Services Staff is required, are the details included in the response above?**  
Yes \_\_\_\_\_ or, No follow up is necessary \_\_\_\_\_

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## INMATE'S APPEAL

If you are not satisfied with this response, you may appeal this decision within five working days as per policy by filling in the information requested below and mailing it to the Deputy Director for Health & Correctional Programs. Keep in mind that you are appealing the decision to the original grievance. Do not list additional issues, which were not a part of your original grievance, as new issues will not be addressed. Your appeal statement is limited to what you write in the space provided above the signature line.

**WHY DO YOU DISAGREE WITH THE RESPONSE GIVEN ABOVE?**

\_\_\_\_\_  
Inmate Signature

\_\_\_\_\_  
ADC#

\_\_\_\_\_  
Date

If appealing, please submit both the Unit Level Grievance Form (Attachment I) and the Health Services Response (Attachment IV)

**Acknowledgment of Grievance Appeal, or Rejection of Appeal**

TO: Inmate \_\_\_\_\_ ADC # \_\_\_\_\_

FROM: \_\_\_\_\_ TITLE: \_\_\_\_\_

RE: Receipt of Grievance Appeal # \_\_\_\_\_ DATE: \_\_\_\_\_

Please be advised your Appeal dated \_\_\_\_\_ was received in my office on \_\_\_\_\_

**You will receive communication from this office regarding this Grievance by \_\_\_\_\_,  
OR,**

**Your grievance appeal is being returned pursuant to the Administrative Directive on Inmate Grievances due to one of the following:**

- \_\_\_\_\_ **The time allowed for appeal has expired.**
- \_\_\_\_\_ **The matter is non-grievable and does not involve retaliation.**
- \_\_\_\_\_ **Request disciplinary action against employee, contractor, or volunteer**
- \_\_\_\_\_ **Claim for monetary damage**
- \_\_\_\_\_ **Parole and/or Release matter**
- \_\_\_\_\_ **Transfer**
- \_\_\_\_\_ **Job Assignment (Unrelated to Medical Restriction)**
- \_\_\_\_\_ **Disciplinary matter**
- \_\_\_\_\_ **Matter beyond the Department's control and/or matter of State/Federal law**
- \_\_\_\_\_ **Involves an anticipated event**
- \_\_\_\_\_ **Publication**
- \_\_\_\_\_ **You did not send all the proper Attachments:**
  - \_\_\_\_\_ **Unit Level Grievance Form (Attachment I)**
  - \_\_\_\_\_ **Warden's/Center Supervisor's Decision (Attachment III); or Health Services Response (Attachment IV for Health Issues Only)**
  - \_\_\_\_\_ **Acknowledgement and/or Rejection form (Attachment II)**
  - \_\_\_\_\_ **Step Two was appropriately rejected**
  - \_\_\_\_\_ **Did not give reason for appeal in space provided for appeal**
  - \_\_\_\_\_ **Did not complete Attachment III or IV by signing your name, ADC #, and/or the date**

\_\_\_\_\_ **Unsanitary form (s) or documents received**

\_\_\_\_\_ This Appeal was REJECTED because it was a duplicate of \_\_\_\_\_, or was frivolous or vexatious.

**Attachment VI**

INMATE NAME \_\_\_\_\_ ADC# \_\_\_\_\_ GRIEVANCE # \_\_\_\_\_

**CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION**

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

Please be advised that if you appeal this decision to the U.S. District Court, a copy of this Chief Deputy/Deputy/Assistant Director's Decision must be attached to any petition or complaint or the Court may dismiss your case without notice. You may also be subject to paying filing fees pursuant to the Prison Litigation Act of 1995.

## GRIEVANCE PROCEDURE CODES

Attachment VII (Page 1)

Each Unit/Center is assigned a unit code as follows:

BC	Boot Camp	MC	Mississippi County Work Release	PB	Pine Bluff Unit
BOW	Bowie County	MCP	McPherson Unit	PBR	Pine Bluff Reentry Center
BU	Benton Unit	MCS	McPherson Special Needs Unit	PBW	Pine Bluff Unit Work Release
CU	Cummins Unit	MX	Maximum Security Unit	TU	Tucker Unit
CMU	Cummins Modular Unit	NC	North Central Unit	TX	Texarkana Regional Correctional Center
DR	Delta Regional Unit	OR	Ouachita River Corr. Unit SAT	VU	Varner Unit – population
EA	East Arkansas – population	Wrightsville	Satellite Unit	VSM	Varner Super Max
EAM	East Arkansas – Max Sec	SNU	ORCU Special Needs Unit	WR	Wrightsville Unit
ESU	Ester Unit	SNN	ORCU New Commitment	WHM	Wrightsville Hawkins Males
GR	Grimes Unit	SNH	ORCU Hospital		
RLW	Randall L. Williams Facility	NW	Northwest AR Work Release		
HA	Hawkins Unit				

Which is succeeded by the last two digits of the calendar year, followed by a five digit sequential number beginning with 00001 (i.e., CU-03-00001).

## GRIEVANCE TYPE CODES

100	Transfer	500	Institution Operations
101	Unit Transfer	501	Food/Food Services
102	Interstate Compact	502	Commissary
200	Institutional Assignment	503	Inmate Funds
201	Cell Barracks	504	Sanitation – Showers, etc.
202	Job	505	Inmate Property Claims
203	Classification	506	Clothing – Bedding/Footwear
204	Enemy Alert List	507	Activity Rotation
205	Protective Custody	508	Living Conditions
206	Punitive	509	Working Conditions
207	Administrative Segregation	510	Grooming
208	School/Vocation Training	511	Recreation
209	Rehabilitation Programs	512	Searches
210	Counselors	513	Contraband/Confiscation Forms
211	Investigative Status – DCR	514	Alternative Meals
212	48 Hour Relief Privileges	515	Hunger Strike
300	Communication	516	Diet
301	Visits (non-legal)	600	Medical
302	Telephone	601	Denial of Treatment
303	Radio/Television/Movie	602	Harassment or Abuse
304	Interview Request	603	Records
305	Unit Policy/ADC Policy	604	Footwear/Orthotics
306	Publication	605	Sick Call – not otherwise specified
307	Mail	606	Vision
308	Marriage	607	Food/Special Diet
400	Disciplinary Matters	608	Medication/Pill Call – not otherwise Specified

## GRIEVANCE TYPE CODES

### Attachment VII (Page 2)

609	Medical Classification	707	Retaliation/Harassment – Use of the Grievance Process
610	Hearing	708	Retaliation/Harassment – Access to Courts Rights
611	Housing conditions (medical reasons)	709	Notary Services
612	Chronic Care	710	Access to Grievance Forms
613	Chronic Care not seen	711	Storage of Legal Materials
614	Chronic Care rx's not prescribed	712	Legal Mail
615	delete	713	No Response to Grievance
615	Orthopedic	714	Other Legal Matters
616	Sick Call no security escort	715	No Further Action is Necessary(NFAN)
617	Sick Call not seen timely	716	Freedom of Information Act (FOIA)
618	Sick Call referred not seen	717	Multiple Issues Grieved
619	Other	718	Welfare
620	Dental	719	Copies Made
621	Dental Prosthetics	720	Retaliation – other
622	Medical Appointments (outside not otherwise specified)	721	Loss of Property
623	Surgery		
630	Mental Health	800	Complaints Against Staff
631	Mental Health Appointments	801	Physical Abuse
632	Mental Health – Medication side effects	802	Verbal Abuse
633	Mental Health – Housing	803	Other Complaints Against Staff
640	Medication not given	900	Other
641	Medication prescribed	901	Good Time
642	OPM medications	902	Furlough
643	Medication not ordered	903	Other Complaints Against Inmates/Cellmate
644	Medication error	904	Time Computation
645	Medication pharmacy error	905	Hobby Craft
650	Co-pay	906	Religion
651	Lab	907	Parole Matters
652	X-ray	908	Discrimination (Race, Religion, Sex, etc).
653	Treatment call	909	Name Change
654	Informal resolution not answered	910	Urine Testing
655	Consults	911	Work Release
		912	Maintenance
700	Legal	913	Grieving for Another Inmate
701	Access to courts	914	Detainer Removed
702	Indigent Inmate Supplies	915	PREA
703	Law Books/Pages		
704	Law Library		
705	Legal Visits with Inmate		
706	Other Legal Visits		

**Attachment VIII**

The below listed inmate has filed a grievance/appeal with this office. Please give a detailed statement in regards to the issue(s) stated by the inmate in this grievance. The statement, "I have no knowledge," is not acceptable. Also, please submit any supporting documentation with your response, (i.e., disciplinary, 005's, logs, medical information, other officer and/or inmate statements, etc.).

**EMPLOYEE:** \_\_\_\_\_ **UNIT:** \_\_\_\_\_

**RE: INMATE:** \_\_\_\_\_ **ADC#** \_\_\_\_\_

**FROM:** \_\_\_\_\_ **DUE DATE:** \_\_\_\_\_

**GRIEVANCE #:** \_\_\_\_\_ **DATE & TIME OF INCIDENT** \_\_\_\_\_

Inmate's Complaint:

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**EMPLOYEE STATEMENT BELOW**

**STATEMENT:** \_\_\_\_\_

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\_\_\_\_\_  
Responding Staff Signature

\_\_\_\_\_  
Date

You are not to retaliate against this inmate in any shape, form or fashion for submitting this grievance. If you are found to have retaliated against any inmate for using the grievance procedure, you will be subject to disciplinary action, which may be a verbal warning, a written warning, and/or termination.

# GRIEVANCE WAIVER

TO: \_\_\_\_\_ DATE: \_\_\_\_\_

FROM: \_\_\_\_\_ SUBJECT: \_\_\_\_\_

I, \_\_\_\_\_, ADC# \_\_\_\_\_, do hereby agree that grievance number \_\_\_\_\_, dated \_\_\_\_\_, has been resolved/and/or, I no longer want to pursue this matter. This decision is voluntary and made without threats or coercion of any type.

\_\_\_\_\_  
Inmate Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date



### GRIEVANCE EXTENSION

TO: Inmate \_\_\_\_\_ ADC# \_\_\_\_\_

FROM: \_\_\_\_\_ TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_ GRIEVANCE # \_\_\_\_\_

ADDITIONAL TIME IS NECESSARY IN ORDER TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

YOU WILL RECEIVE COMMUNICATION FROM THIS OFFICE BY: \_\_\_\_\_

This extension is automatic unless you specifically disagree; if you agree to the extension then no action is required on your part. If you DO NOT agree to an extension, check DISAGREE, complete the signature line and return the original to this office. If you do not agree, you understand that, with your decision, NO FURTHER ACTION will be taken on this issue, you WILL NOT have exhausted your administrative remedies, and your grievance will be returned to you without a decision regarding its merit.

\_\_\_\_\_ **DISAGREE**      **By disagreeing with this extension, I waive my right to have this grievance issue considered.**

\_\_\_\_\_ ADC# \_\_\_\_\_ DATE: \_\_\_\_\_  
**Inmate Signature**

\_\_\_\_\_ DATE: \_\_\_\_\_  
**Warden/Center Supervisor Signature**

\_\_\_\_\_ DATE: \_\_\_\_\_  
**Chief Deputy/Deputy/Assistant Director/Director Signature**



Director's Office  
PO Box 8707  
Pine Bluff, AR 71611-8707  
Phone: 870-267-6999  
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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Unit Entry Procedures ~~for Inmates, Visitors and Staff~~ for the Control of Contraband

**NUMBER:** ~~19-14-44~~  
~~13-118~~ 14-44

**SUPERSEDES:** ~~13-113 and~~

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**APPLICABILITY:** All Employees, Visitors, and Inmates of the Arkansas Department of Correction

**REFERENCE:** ~~AR 401 Searches for and Control of Contraband;~~ **PAGE 1 of 109**  
~~AD 18-491-24 Searches of Inmates, Unit Searches & Control of~~

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~~Contraband;~~

~~AD 14-0318-46 Inmate Property Control;~~  
~~AD 19-09 Peace Officer Powers;-~~  
Arkansas Code Annotated 12-27-107;  
Arkansas Code Annotated 25-17-301, et seq.;

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AR 865 Offender Visitation;

~~AD 14-18 Peace Officer Powers~~

**APPROVED:** Original Signed by ~~Ray Hobbs~~ Wendy Keeceley  
**EFFECTIVE DATE:** ~~10/22/14~~

### I. POLICY:

It shall be the policy of the Arkansas Department of Correction (ADC) to have procedures in place to detect and deter the introduction, manufacture, possession ~~and~~ or conveyance of contraband. -Any visitor refusing to fully participate in a search or withdrawing from an ongoing search shall be escorted from Department property subject to the provisions below, and may be **indefinitely suspended** from visitation and phone privileges. -Any staff refusing to fully participate in a search or attempting to withdraw from an ongoing search ~~a search~~ shall be

escorted from Department property subject to the provisions below, and may be permanently barred from all ADC facilities. -ADC Correctional Peace Officers are authorized to detain for a reasonable length of time any visitor or staff if **reasonable suspicion** exists that the individual is attempting to bring contraband into the facility. -ADC Correctional Peace Officers are authorized to make an arrest where **probable cause** exists that a criminal offense has been committed.

## II. **EXPLANATION:**

The control of contraband within a correctional environment is necessary to provide a safe, secure environment for inmates, employees, and visitors. -The detection, interception and confiscation of contraband is essential to provide security and good order in the institution and is required to protect the public, staff and inmates.

## III. **APPLICABILITY**

The policy applies to all unit employees, inmates, visitors, and others who enter, or attempt to enter, any Arkansas Department of Correction Unit or Facility.

## IV. **DEFINITIONS**

As used in this Administrative Directive-document, the following definitions apply:

- A. Anomaly: Something that is peculiar, irregular, or difficult to classify. For purposes of this policy, it refers to an item that does not appear to be part of an individual's body or item of clothing.
- B. Contraband: Any item or items determined by the Board of Corrections or Arkansas Department of Correction to jeopardize the safety, security, or good order of its institutions, including but not limited to items which are illegal or banned by any relevant policy. ~~ies.~~
- C. Staff: All Arkansas Department of Correction employees, volunteers, contract medical and mental health employees, Arkansas Correctional School employees and employees of Riverside Vo-Tech.
- D. Inmates: Persons incarcerated in the Department of Correction.
- E. Visitor: Any individual who is neither an inmate nor staff, including but not limited to inmate family members or friends, vendors, state officials, law enforcement, members of the media, etc.

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- F. **Strip Search:** An unclothed body search, which requires the person to remove his or her clothing in conformance with approved procedures and professional practices. -A strip search of a visitor or staff will be performed by staff of the same gender as the person being searched.
- G. **Pat Search:** A clothed body search consisting of an individual's garments, and personal effects ready at hand, the body's surface, and area within the individual's immediate control. -The pat search of staff may be performed by an employee of either gender. -The pat search of a visitor should be by an employee of the same gender.
- H. **Reasonable Suspicion of Possession of Contraband:** ~~Arkansas Department of Correction officials must have a reasonable suspicion that an individual is suspected of possessing contraband. Circumstances Such suspicion must be drawn on~~ based upon observation, use of screening devices and knowledge of reasonable and articulable facts sufficient to cause a reasonable person ~~knowing the same facts~~ to conclude ~~that the person entering, or attempting to enter, a Department unit or facility may possess contraband. e same thing.~~

Factors for determining Reasonable Suspicion may include but are not limited to:

- (1) Demeanor of the ~~person individual~~;
  - (2) Gait and manner of the ~~person individual~~;
  - (3) Whether the ~~person individual~~ is carrying and/or attempting to conceal any article or object;
  - (4) Manner of dress;
  - (5) Apparent effort to avoid identification or confrontation by officials;
  - (6) The time of day or night the ~~person individual~~ is observed;
  - (7) Information obtained from monitored conversation;
  - (8) Information received from background checks;
  - (9) Information obtained from reliable informants or third parties;
  - (10) The results of the use of screening devices (see Definitions J,K,L,M,N below) with respect to the person and
  - (11) Whether the individual is consorting with others whose conduct is "reasonably suspect".
- I. **Probable Cause:** A level of reasonable belief based on facts that can be articulated and would warrant a person of reasonable caution to believe that a criminal offense has been committed.
- ~~I.~~ **J. Metal Detector:** An electronic device used for detecting the presence of metallic objects.

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- K. Cell Tower: An electronic device used to detect ferrous metals used in production of electronic items such as cell phones.
- L. Advanced Imaging Technology: A device used to safely screen an individual for both metallic and non-metallic contraband that may be concealed under clothing or within the body.
- M. Handheld tools: An electronic device used to screen for contraband, including a metal detector, cell phone detector, or other electronic device that can be easily held and manipulated by staff in searching a particular area of an individual, packages, or possessions.
- N. Ion Scanner: A device used to screen for drug residue on hands or other objects.

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## V. ENTRY PROCEDURES

- A. Any individual seeking entry into any Unit or Facility of the Arkansas Department of Correction must successfully navigate all physical and electronic security checkpoints, except members of the Parole Board, Board of Corrections, the Arkansas General Assembly, Governor's Office, law enforcement officers requested to assist the Department, and those individuals allowed by the Warden. These excepted individuals will be met at the Entrance Building by a Deputy Warden or Warden for escort into the Unit or Facility when clearance of the electronic security checkpoints is not required by the Warden.
  - 1. Physical and electronic checkpoints may include but are not limited to the following:
    - a. Walk-through and/or hand-held metal detectors, cell towers and/or hand-held cell phone detectors, and Advanced Imaging Technology;
    - b. Searches of persons, clothing and other personal items;
    - c. Ion scanning devices;
    - d. Drug interdiction and detection dogs; and
    - ~~e.~~ Any other electronic or advanced technological devices obtained and authorized by the Department.
    - e.

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2. It is important for individuals to realize personal clothing choices containing metal (for example, snaps, buttons, buckles, under wires or support materials) may cause the electronic detectors to alarm.
3. No person, unless specifically exempted, will be allowed entry into any Arkansas Department of Correction facility without being able to clear the security screening utilized by that facility.
4. Failure to fully cooperate and comply with all entry procedures, including the verbal instructions of entry personnel ~~Non-compliance by an e~~ Employees will be subject to appropriate disciplinary action, up to and including termination of employment. Failure to fully cooperate and comply with all entry procedures, including the verbal instructions of entry personnel, by a ~~and~~ visitors will result in such visitor's indefinite suspension ~~indefinite suspension be indefinitely suspended~~ from the inmate's visitation and phone lists.
5. Any person ~~Everyone~~ entering ADC property is subject to having ~~may have~~ their vehicle searched at any time, including entry and exit of the property.
6. Individuals, as well as packages and other non-vehicular items entering and leaving the facility, may be searched by visual and physical searches including electronic methods of inspection, inspections/searches by canine teams including drug dogs, and any of the other electronic or advanced technologies obtained and authorized by the Department for use in searches.
7. The following WARNING shall be posted in a prominent location in the entry of each unit and facility, to include the following WARNING. The terms of this WARNING are deemed to be a part of this Administrative Directive and all persons entering, attempting to enter, or presenting himself or herself for entry to a unit or facility shall be subject to this WARNING.

**WARNING:** This facility uses a variety of electronic scanning devices to detect the presence of contraband. The detection, interception and confiscation of contraband is essential to provide for the security and good order of the institution and is required to protect the public, staff and inmates. All persons must realize that personal clothing choices containing metal (for example, snaps, buttons, buckles, under wires or support materials) may cause the electronic detectors to alarm.

Any visitor unable to successfully clear all of the security checkpoints will be denied entry and will be suspended from the approved visitation list.

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Contractual agent visitors unable to successfully clear all security checkpoints will be **denied entry** and may be **barred from all ADC facilities**.

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A staff member unable to clear all of the security checkpoints after following all entry procedures as directed by entry staff will be denied entry and will be subject to disciplinary action, which in this case is **termination for insubordination**. Staff members will not be allowed to voluntarily end the attempt to clear security checkpoints and return at a later time. Any staff member attempting to withdraw will be subject to disciplinary action, which in this case is **termination for insubordination**.

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All vehicles entering ADC property are subject to search at any time.

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## VI. ENTRY PROCEDURES FOR UNITS OR FACILITIES WITH X-RAY, METAL DETECTORS, ION SCANNING, ADVANCED IMAGING TECHNOLOGY, AND/OR CELL TOWERS

### 1. STEP ONE: X-ray of personal property:

- a. Upon entry into the Entrance Building an individual a person shall remove and place all items from pockets and/or person into the designated container. -This includes, but is not limited to, jackets, coats, shoes, belts, food, jewelry, money, and any other item as directed by entry personnel. etc.
- b. The container will be placed in the X-ray machine for scanning.
- c. All articles will be scanned utilizing the X-ray machine and searched by the Screening Officer to ensure there are-is no contraband and/or unauthorized articles entering the facility. -Any contraband articles discovered at this step will be confiscated and the individual will not be allowed access to the facility without the approval of the Warden and/or designee.
- d. Although it is essential that all searches are thorough and systematic, it is equally important that no damage, loss, or abuse occurs to any personal property. -Any such loss or damage that is determined to be through neglect may result in disciplinary action against the negligent employee(s) and officer(s); and such employee they may be liable for the cost of replacement of such items. Any item seized as contraband shall be properly documented.

2. **STEP TWO: Walk-through Metal Detector.** When instructed by the Screening Officer the person individual will enter the Walk-through Metal Detector. If cleared by the Screening Officer the individual will proceed to the Pat Search area. However, if an alarm activates on the Walk-through Metal Detector the person individual will step back and remove any other metallic objects. -A person individual will only be allowed three (3) attempts to successfully clear the Walk-through Metal Detector. -If unsuccessful after the third and final attempt, the Warden and/or designee will be contacted. -Then the person individual will be asked to submit to a Pat Search and a Cell Phone Tower screening. -If the person individual fails to clear either screenings, proper documentation will be prepared using a 005. A visitor The individual will then be given an opportunity by the Warden and/or designee to submit to a Strip Search. An employee may be required to submit to a Strip Search.
3. **STEP THREE: Advanced Imaging Scanner.** When instructed by the Screening Officer, the person individual will walk into the Image Screening Unit and stand in the designated area and follow the instructions of the Screening Officer. ~~The individual being scanned will lift their arms above their heads as instructed by the Screening Officer. The person will stand still until the Screening Officer advises them to leave the Screening Unit.~~ Any anomalies identified by the Image Screening Unit will result in a search by staff. -Any items discovered on the person being screened will be removed by that person individual and handed to the Screening Officer for examination. -If the item is contraband it will be confiscated and the Warden and/or designee will be contacted. -The person individual will then be required to be screened again. If a clear image is presented, the person individual will continue to the Pat Search area. -If a clear image is not presented, the person individual will be searched again in the area containing the anomaly to confirm whether there is anything present. -The area will be searched first by a Pat Search, and if the area cannot be determined to be clear of any contraband, the Warden or designee will ask a visitor the individual to submit to a Strip Search. An employee may be required to submit to a Strip Search.
4. **STEP FOUR: Pat Search.** All persons individuals entering the facility will submit to a Pat Search ~~of their persons.~~ If no contraband is found during the Pat Search the person individual will be allowed to proceed to the next entrance screening step. -If contraband is located or detected on the individual by the Searching Officer, the Warden and/or designee must be immediately contacted and the person individual will not be allowed to enter the facility without further screening which may include a Strip Search. -The person individual may also be detained for a determinable amount of time dependent upon the decision of the Warden and/or designee.
5. **STEP FIVE: Cell Phone Tower.** When instructed by the Screening Officer, the person individual will move to the Cell Phone Tower's designated box area. -He or she will be required to turn or rotate their body a full 360 degree circle while remaining in the designated box. -The Cell Phone Tower utilizes



an alarm system that works in conjunction with a light system in detecting the presence of contraband cell phones.

**“Green Light”** designates the individual is cleared for entry. -He or she will be allowed to retrieve their personal property, log in and enter the building.

**“Yellow Light”** designates caution because some metal is present, but not necessarily a cell phone. -Staff will attempt to locate the metal using a hand-held metal detector. -Once located, the ~~item(s) metal~~ will be removed.

**“Red Light and/or Auditory Alarm”** designates a “POSITIVE” alert for the presence of a cell phone and/or cell phone components. Staff will attempt to locate the metal using a hand-held metal detector; once located, the ~~item(s) metal~~ will be removed.

**Note:** Should a yellow light, red light, and/or auditory alarm appear/sound, the ~~individual-person~~ will step out of the designated box, re-check and remove ~~from their persons~~ any ~~relevant metal~~ items and return to the designated box for another screening. -Upon showing of a “Green Light”, he or she will be allowed to retrieve their personal property, log in and enter the building. If a “Red Light” or “Yellow Light” is indicated, the Warden ~~and~~ or designee will be contacted. After the additional screening, the results of failing to clear the Cell Tower will be documented with a 005. ~~A visitor~~ ~~The person~~ will be given an opportunity by the Warden ~~and~~ or designee to submit to a strip search. ~~An employee may be required to submit to a Sstrip Ssearch.~~

- 6. STEP SIX: Strip Search.** If the ~~visitor is requested to submit to Sstrip Ssearch and individual~~ agrees, he or she will be escorted to a private area by a person of the same gender, who will perform the search. ~~An employee may be required to submit to a Sstrip Ssearch.~~ All ~~Sstrip Ssearches~~ shall be conducted in an area separate and private from inmates and other staff, if possible, and in such a way as to ensure tact, privacy, and a minimum of embarrassment. -If contraband is discovered, it will be taken by security staff and the person will be allowed to dress. Established procedures will be followed in dealing with the ~~person/individual~~ and the contraband. -If no contraband is found, the individual will be allowed to dress and proceed. If ~~a visitor/the individual~~ refuses the ~~Sstrip Ssearch~~, he/she will be denied entry ~~and suspended from the inmate’s visitation and phone list.~~ -If an employee ~~refuses a request or directive to submit to a Sstrip Ssearch, or attempts to withdraw from the entry procedure,~~ -he/she will be subject to disciplinary action, ~~up to and including termination.~~ ~~If a visitor, he/she will be denied entry and suspended from the inmate’s visitation and phone list.~~ Strip Searches may be requested only when **reasonable suspicion** exists that the visitor is attempting to bring contraband into the facility. -Strip ~~Ssearches~~ of visitors will not be conducted indiscriminately and must be authorized by the Warden/Center Supervisor or, in their absence, the Deputy Warden or

appropriate Deputy Director, or Director. -Visitors under the age of eighteen will not be subjected to a ~~S~~strip ~~S~~earch without the consent of the visitor's parent or guardian.

## VII. SPECIAL INSTRUCTIONS

**Medical Restrictions:** Bypassing any security point due to medical restriction must be authorized by the Warden ~~and~~/or designee.

- A. Persons with Internal Medical Devices such as a pacemaker or a defibrillator will notify the Screening Officer immediately upon entry. That ~~person individual~~ must provide a recent signed statement from a physician in good standing. The ~~person individual~~ will be scanned by the Advanced Imaging Scanner, ~~if available.~~
- B. All forms of electronic scanning, Metal Detector, Cell Tower and Imaging Technology, may be used on pregnant females. -In the event a pregnant ~~person individual (employee or staff and/or~~ visitor) presents a recent signed statement in advance of seeking entry into the facility from a physician in good standing that the ~~person individual~~ cannot be screened by any of the electronic scanning equipment: metal detector, cell tower or advanced imaging technology, the ~~person individual~~ ~~may will~~ be subjected to a ~~thorough Pat S~~earch, ~~or a Strip Search.~~
- C. Any ~~persons approved individuals~~ with valid ~~and approved~~ medical excuses will be searched by means that have been identified and authorized by the Unit Warden ~~and~~/or designee, based on their provided medical information. -This may be any combination of the search procedures identified in this policy. -If no contraband is found the ~~person y~~ will be allowed to enter into the facility and proceed. If contraband is found, the ~~person individual~~ will be detained and the Warden and/or designee will be immediately advised.
- D. A list of all excused employees will be kept in a separate file within the ~~Warden's~~ office. -Their medical statements will be kept in their medical file in the Human Resources Office as provided by policy.

## VIII. CRIMINAL CHARGES

The introduction of contraband is grounds for arrest. Arkansas Department of Correction Institutional Correctional Peace Officers are authorized to make an arrest, where probable cause exists that a criminal offense has been committed.

## **IX. ENTRY PROCEDURES FOR INMATES**

Inmates entering the Sally Port search area are subject to and will submit to any or all of the following searches:

1. Pat Search
2. Strip Search
3. Metal Detector screening
4. Cell Phone Detection Tower screening
5. Advanced Imaging Technology
6. Body Cavity Search, see AD 11-65

**NO INMATE WILL BE ALLOWED TO ENTER THE BUILDING WITHOUT SATISFACTORILY COMPLETING EACH STEP.**

## **Frequently Asked Questions ~~For~~for the Adani CONPASS**

**Q: Is the Adani CONPASS Scan safe?**

A: Yes. The exposure received is less than the average amount of background radiation that a person receives standing in the sun for about 1 hour.

**Q: How does a CONPASS Scan compare to the radiation that I receive during a commercial flight?**

A: Every 4 minutes during a commercial flight equals 1 CONPASS Scan.

**Q: How long does the COMPASS Scan take?**

A: Less than 8 seconds.

**Q: Will the COMPASS Scan violate any of my privacy concerns?**

A: No. The COMPASS System does not use surface rendering imaging technology or software. There are no soft tissue images created by the COMPASS System eliminating privacy concerns.

**Q: Will being scanned on the COMPASS System affect my pacemaker?**

A: No.

**Q: Do I need to remove my shoes, belt, jewelry or any outer apparel during a COMPASS Scan?**

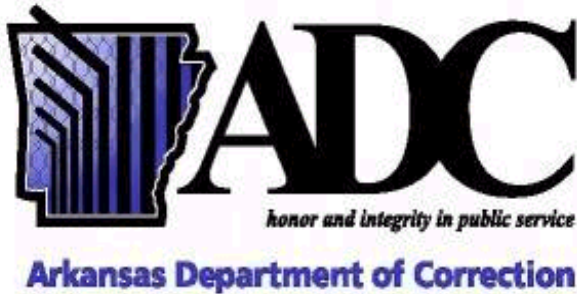
A: No.

**Q: How many COMPASS Scans am I allowed to have in 1 year?**

A: 4,000. More than 10 per day! Federal Regulations regard this imaging technology as an NID (Negligible Individual Dose) procedure.

**Q: How does the COMPASS Scan compare to a chest x-ray?**

A: One chest x-ray is equivalent to 400 COMPASS Scans.



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT: Unit Entry Procedures for the Control of Contraband**

**NUMBER: 19-25**

**SUPERSEDES: 14-44**

**APPLICABILITY: All Employees, Visitors, and Inmates of the  
Arkansas Department of Correction**

**REFERENCE: AR 401 Searches for and Control of Contraband; PAGE 1 of 10  
AD 18-49 Searches of Inmates, Unit Searches & Control of Contraband;  
AD 18-46 Inmate Property Control;  
AD 19-09 Peace Officer Powers;  
Arkansas Code Annotated 12-27-107;  
Arkansas Code Annotated 25-17-301, et seq.;  
AR 865 Offender Visitation**

**APPROVED: Original Signed by Dexter Payne**

**EFFECTIVE DATE: 8/28/2019**

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### **I. POLICY:**

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Correctional Peace Officers are authorized to make an arrest where **probable cause** exists that a criminal offense has been committed.

## **II. EXPLANATION:**

The control of contraband within a correctional environment is necessary to provide a safe, secure environment for inmates, employees, and visitors. The detection, interception and confiscation of contraband is essential to provide security and good order in the institution and is required to protect the public, staff and inmates.

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- C. Staff: All Arkansas Department of Correction employees, volunteers, contract medical and mental health employees, Arkansas Correctional School employees and employees of Riverside Vo-Tech.
- D. Inmates: Persons incarcerated in the Department of Correction.
- E. Visitor: Any individual who is neither an inmate nor staff, including but not limited to inmate family members or friends, vendors, state officials, law enforcement, members of the media, etc.
- F. Strip Search: An unclothed body search, which requires the person to remove his or her clothing in conformance with approved procedures and professional practices. A strip search of a visitor or staff will be performed by staff of the same gender as the person being searched.
- G. Pat Search: A clothed body search consisting of an individual's garments, and personal effects ready at hand, the body's surface, and area within the

individual's immediate control. The pat search of staff may be performed by an employee of either gender. The pat search of a visitor should be by an employee of the same gender.

- H. Reasonable Suspicion of Possession of Contraband: Circumstances based upon observation, use of screening devices and knowledge of reasonable and articulable facts sufficient to cause a reasonable person to conclude that the person entering, or attempting to enter, a Department unit or facility may possess contraband.

Factors for determining Reasonable Suspicion may include but are not limited to:

- (1) Demeanor of the person ;
- (2) Gait and manner of the person;
- (3) Whether the person is carrying and/or attempting to conceal any article or object;
- (4) Manner of dress;
- (5) Apparent effort to avoid identification or confrontation by officials;
- (6) The time of day or night the person is observed;
- (7) Information obtained from monitored conversation;
- (8) Information received from background checks;
- (9) Information obtained from reliable informants or third parties;
- (10) The results of the use of screening devices (see Definitions J,K,L,M,N below) with respect to the person and
- (11) Whether the individual is consorting with others whose conduct is "reasonably suspect".

- I. Probable Cause: A level of reasonable belief based on facts that can be articulated and would warrant a person of reasonable caution to believe that a criminal offense has been committed.

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- M. Handheld tools: An electronic device used to screen for contraband, including a metal detector, cell phone detector, or other electronic device that can be easily held and manipulated by staff in searching a particular area of an individual, packages, or possessions.

- N. Ion Scanner: A device used to screen for drug residue on hands or other objects.

## V. ENTRY PROCEDURES

- A. Any individual seeking entry into any Unit or Facility of the Arkansas Department of Correction must successfully navigate all physical and electronic security checkpoints, except members of the Parole Board, Board of Corrections, the Arkansas General Assembly, Governor's Office, law enforcement officers requested to assist the Department, and those individuals allowed by the Warden. These excepted individuals will be met at the Entrance Building by a Deputy Warden or Warden for escort into the Unit or Facility when clearance of the electronic security checkpoints is not required by the Warden.
1. Physical and electronic checkpoints may include but are not limited to the following:
    - a. Walk-through and/or hand-held metal detectors, cell towers and/or hand-held cell phone detectors, and Advanced Imaging Technology;
    - b. Searches of persons, clothing and other personal items;
    - c. Ion scanning devices;
    - d. Drug interdiction and detection dogs; and
    - e. Any other electronic or advanced technological devices obtained and authorized by the Department.
  2. It is important for individuals to realize personal clothing choices containing metal (for example, snaps, buttons, buckles, under wires or support materials) may cause the electronic detectors to alarm.
  3. No person, unless specifically exempted, will be allowed entry into any Arkansas Department of Correction facility without being able to clear the security screening utilized by that facility.
  4. Failure to fully cooperate and comply with all entry procedures, including the verbal instructions of entry personnel by an employee will be subject to appropriate disciplinary action, up to and including termination of employment. Failure to fully cooperate and comply with all entry procedures, including the verbal instructions of entry personnel, by visitors will result in such visitor's indefinite suspension from the inmate's visitation and phone lists.



5. Any person entering ADC property is subject to having their vehicle searched at any time, including entry and exit of the property.
6. Individuals, as well as packages and other non-vehicular items entering and leaving the facility, may be searched by visual and physical searches including electronic methods of inspection, inspections/searches by canine teams including drug dogs, and any of the other electronic or advanced technologies obtained and authorized by the Department for use in searches.
7. The following WARNING shall be posted in a prominent location in the entry of each unit and facility, to include the sally port. The terms of this WARNING are deemed to be a part of this Administrative Directive and all persons entering, attempting to enter, or presenting himself or herself for entry to a unit or facility shall be subject to this WARNING.

**WARNING:** This facility uses a variety of electronic scanning devices to detect the presence of contraband. The detection, interception and confiscation of contraband is essential to provide for the security and good order of the institution and is required to protect the public, staff and inmates. All persons must realize that personal clothing choices containing metal (for example, snaps, buttons, buckles, under wires or support materials) may cause the electronic detectors to alarm.

Any visitor unable to successfully clear all of the security checkpoints will be **denied entry** and will be **suspended from the approved visitation list**.

Contractual agent visitors unable to successfully clear all security checkpoints will be **denied entry** and may be **barred from all ADC facilities**.

A staff member unable to clear all of the security checkpoints after following all entry procedures as directed by entry staff will be denied entry and will be subject to disciplinary action, which in this case is **termination for insubordination**. Staff members will not be allowed to voluntarily end the attempt to clear security checkpoints and return at a later time. Any staff member attempting to withdraw will be subject to disciplinary action, which in this case is **termination for insubordination**.

All vehicles entering ADC property are subject to search at any time.

## **VI. ENTRY PROCEDURES FOR UNITS OR FACILITIES WITH X-RAY, METAL DETECTORS, ION SCANNING, ADVANCED IMAGING TECHNOLOGY, AND/OR CELL TOWERS**

**1. STEP ONE: X-ray of personal property:**

- a. Upon entry into the Entrance Building a person shall remove and place all items from pockets and/or person into the designated container. This includes, but is not limited to, jackets, coats, shoes, belts, food, jewelry, money, and any other item as directed by entry personnel.
- b. The container will be placed in the X-ray machine for scanning.
- c. All articles will be scanned utilizing the X-ray machine and searched by the Screening Officer to ensure there is no contraband /or unauthorized articles entering the facility. Any contraband discovered at this step will be confiscated and the individual will not be allowed access to the facility without the approval of the Warden or designee.
- d. Although it is essential that all searches are thorough and systematic, it is equally important that no damage, loss, or abuse occurs to any personal property. Any such loss or damage that is determined to be through neglect may result in disciplinary action against the negligent employee(s), and such employee may be liable for the cost of replacement of such items. Any item seized as contraband shall be properly documented.

**2. STEP TWO: Walk-through Metal Detector.** When instructed by the Screening Officer the person will enter the Walk-through Metal Detector. If cleared by the Screening Officer the individual will proceed to the Pat Search area. However, if an alarm activates on the Walk-through Metal Detector the person will step back and remove any other metallic objects. A person will only be allowed three (3) attempts to successfully clear the Walk-through Metal Detector. If unsuccessful after the third and final attempt, the Warden or designee will be contacted. Then the person will be asked to submit to a Pat Search and a Cell Phone Tower screening. If the person fails to clear either screenings, proper documentation will be prepared using a 005. A visitor will then be given an opportunity by the Warden or designee to submit to a Strip Search. An employee may be required to submit to a Strip Search.

**3. STEP THREE: Advanced Imaging Scanner.** When instructed by the Screening Officer, the person will walk into the Image Screening Unit, stand in the designated area and follow the instructions of the Screening Officer. Any anomalies identified by the Image Screening Unit will result in a search by staff. Any items discovered on the person being screened will be removed by that person and handed to the Screening Officer for examination. If the item is contraband it will be confiscated and the Warden or designee will be contacted. The person will then be required to be screened again. If a clear image is presented, the person will continue to the Pat Search area. If a clear image is not presented, the person will be searched again in the area containing the anomaly to confirm whether there is anything present. The area

will be searched first by a Pat Search, and if the area cannot be determined to be clear of any contraband, the Warden or designee will ask a visitor to submit to a Strip Search. An employee may be required to submit to a Strip Search.

4. **STEP FOUR: Pat Search.** All persons entering the facility will submit to a Pat Search. If no contraband is found during the Pat Search the person will be allowed to proceed to the next entrance screening step. If contraband is located or detected by the Searching Officer, the Warden or designee must be immediately contacted and the person will not be allowed to enter the facility without further screening which may include a Strip Search. The person may also be detained for a determinable amount of time dependent upon the decision of the Warden or designee.
5. **STEP FIVE: Cell Phone Tower.** When instructed by the Screening Officer, the person will move to the Cell Phone Tower's designated box area. He or she will be required to turn or rotate their body a full 360 degree circle while remaining in the designated box. The Cell Phone Tower utilizes an alarm system that works in conjunction with a light system in detecting the presence of contraband cell phones.

**"Green Light"** designates the individual is cleared for entry. He or she will be allowed to retrieve their personal property, log in and enter the building.

**"Yellow Light"** designates caution because some metal is present, but not necessarily a cell phone. Staff will attempt to locate the metal using a hand-held metal detector. Once located, the item(s) will be removed.

**"Red Light and/or Auditory Alarm"** designates a "POSITIVE" alert for the presence of a cell phone and/or cell phone components. Staff will attempt to locate the metal using a hand-held metal detector; once located, the item(s) will be removed.

**Note:** Should a yellow light, red light, and/or auditory alarm appear/sound, the person will step out of the designated box, re-check and remove any relevant items and return to the designated box for another screening. Upon showing of a "Green Light", he or she will be allowed to retrieve their personal property, log in and enter the building. If a "Red Light" or "Yellow Light" is indicated, the Warden or designee will be contacted. After the additional screening, the results of failing to clear the Cell Tower will be documented with a 005. A visitor will be given an opportunity by the Warden or designee to submit to a strip search. An employee may be required to submit to a Strip Search.

6. **STEP SIX: Strip Search.** If the visitor is requested to submit to Strip Search and agrees, he or she will be escorted to a private area by a person of the same gender, who will perform the search. An employee may be required to

submit to a Strip Search. All Strip Searches shall be conducted in an area separate and private from inmates and other staff, if possible, and in such a way as to ensure tact, privacy, and a minimum of embarrassment. If contraband is discovered, it will be taken by security staff and the person will be allowed to dress. Established procedures will be followed in dealing with the person and the contraband. If no contraband is found, the individual will be allowed to dress and proceed. If a visitor refuses the Strip Search, he/she will be denied entry and suspended from the inmate's visitation and phone list. If an employee refuses a request or directive to submit to a Strip Search, or attempts to withdraw from the entry procedure, he/she will be subject to disciplinary action, up to and including termination. Strip Searches may be requested only when **reasonable suspicion** exists that the visitor is attempting to bring contraband into the facility. Strip Searches of visitors will not be conducted indiscriminately and must be authorized by the Warden/Center Supervisor or, in their absence, the Deputy Warden or appropriate Deputy Director, or Director. Visitors under the age of eighteen will not be subjected to a Strip Search without the consent of the visitor's parent or guardian.

## VII. SPECIAL INSTRUCTIONS

**Medical Restrictions:** Bypassing any security point due to medical restriction must be authorized by the Warden or designee.

- A. Persons with Internal Medical Devices such as a pacemaker or a defibrillator will notify the Screening Officer immediately upon entry. That person must provide a recent signed statement from a physician in good standing. The person will be scanned by the Advanced Imaging Scanner, if available.
- B. All forms of electronic scanning, Metal Detector, Cell Tower and Imaging Technology, may be used on pregnant females. In the event a pregnant person (employee or visitor) presents a recent signed statement in advance of seeking entry into the facility from a physician in good standing that the person cannot be screened by any of the electronic scanning equipment: metal detector, cell tower or advanced imaging technology, the person may be subjected to a Pat Search, or a Strip Search.
- C. Any persons with valid and approved medical excuses will be searched by means that have been identified and authorized by the Unit Warden or designee, based on their provided medical information. This may be any combination of the search procedures identified in this policy. If no contraband is found the person will be allowed to enter into the facility and proceed. If contraband is found, the person will be detained and the Warden and/or designee will be immediately advised.

- D. A list of all excused employees will be kept in a separate file within the – Warden’s office. Their medical statements will be kept in their medical file in the Human Resources Office as provided by policy.

### **VIII. CRIMINAL CHARGES**

The introduction of contraband is grounds for arrest. Arkansas Department of Correction Institutional Correctional Peace Officers are authorized to make an arrest where probable cause exists that a criminal offense has been committed.

### **IX. ENTRY PROCEDURES FOR INMATES**

Inmates entering the Sally Port search area are subject to and will submit to any or all of the following searches:

1. Pat Search
2. Strip Search
3. Metal Detector screening
4. Cell Phone Detection Tower screening
5. Advanced Imaging Technology
6. Body Cavity Search, see AD 11-65

**NO INMATE WILL BE ALLOWED TO ENTER THE BUILDING WITHOUT SATISFACTORILY COMPLETING EACH STEP.**

## **Frequently Asked Questions for the Adani CONPASS**

**Q: Is the Adani CONPASS Scan safe?**

A: Yes. The exposure received is less than the average amount of background radiation that a person receives standing in the sun for about 1 hour.

**Q: How does a CONPASS Scan compare to the radiation that I receive during a commercial flight?**

A: Every 4 minutes during a commercial flight equals 1 CONPASS Scan.

**Q: How long does the CONPASS Scan take?**

A: Less than 8 seconds.

**Q: Will the CONPASS Scan violate any of my privacy concerns?**

A: No. The CONPASS System does not use surface rendering imaging technology or software. There are no soft tissue images created by the CONPASS System eliminating privacy concerns.

**Q: Will being scanned on the CONPASS System affect my pacemaker?**

A: No.

**Q: Do I need to remove my shoes, belt, jewelry or any outer apparel during a CONPASS Scan?**

A: No.

**Q: How many CONPASS Scans am I allowed to have in 1 year?**

A: 4,000. More than 10 per day! Federal Regulations regard this imaging technology as an NID (Negligible Individual Dose) procedure.

**Q: How does the CONPASS Scan compare to a chest x-ray?**

A: One chest x-ray is equivalent to 400 CONPASS Scans.



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Youthful Inmates

**NUMBER:** 19-

**SUPERSEDES:** 18-48

**APPLICABILITY:** All Employees

**REFERENCE:** AR 802-Classification of  
Offenders

**PAGE 1 of 3**

**APPROVED:** Original signed by

**EFFECTIVE DATE:**

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### I. POLICY:

The Arkansas ~~Department~~-Division of Correction will ensure that youthful inmates are assigned to a specialized housing unit in order to provide the proper programs and the direct supervision necessary to ensure safety and security.

### II. PURPOSE:

To provide effective intervention programming for youthful inmates transitioning into the adult system within the Arkansas Department of Correction. The goal of the program is to provide a safe environment and programming designed to build strong character while providing an opportunity for each inmate to reach his or her full potential as a responsible law-abiding citizen and to reduce recidivism.

### III. DEFINITIONS:

1. **Direct Staff Supervision** – a method of inmate supervision designed to assure safety and security in which security staff are in the same room with, or within reasonable hearing distance of the inmate.
2. **Youthful Inmate** - Any inmate under the age of 18.
3. **Youthful Inmate Housing** – a housing unit where youthful inmates will not have sight, sound, or physical contact with any adult inmate through the use of a shared dayroom or other common space, shower area,

or sleeping quarters, and which provides for direct staff supervision of youthful inmates.

#### IV. PROCEDURE:

##### A. Intake Procedure

The intake process for male and female youthful inmates will occur at the units specified by the Department for male and female intake, respectively.

##### B. Housing

1. Youthful Inmates shall not be housed in punitive housing or restrictive housing more than twenty-four (24) hours except when:

- a. A physical or sexual assault has been committed by the youthful inmate

- b. Conduct of the youthful inmate poses a direct threat to the safety

- of another person or clear threat to the safe and secure operation of the unit; or

- c. The youthful inmate escapes or attempt to escape from the facility

- d. For any youthful inmate housed in punitive housing or restrictive housing, the Warden or ~~the Warden~~ designee shall provide a written authorization stating the specific reasons for housing the youthful inmate outside of the youthful inmate housing. The statement shall include a ~~case management~~ ~~release~~ plan specifying what behaviors need to be modified and under what conditions the youthful inmate may be returned to ~~the general population~~ youthful inmate housing ~~area~~.

- e. The Warden or ~~the Warden~~ designee shall provide ~~a the~~ written authorization for every twenty-four (24) hour period during which the youth inmate remains in punitive housing or restrictive housing after the initial twenty-four (24) hour ~~placements~~.

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##### C. Classification

The Warden/Deputy Warden of any Arkansas Department of Correction facility that houses youthful inmates shall appoint an officer (generally the Classification Officer) to provide for a classification plan for each youthful inmate including a determination of level of risk and program needs developmentally appropriate for adolescents. Classification plans for a youthful inmate shall include



consideration of the physical, mental, social, and educational maturity of the youthful inmate.

D. Programming

Adequate program space shall be provided to meet the physical, social, and emotional needs of each youthful inmate, including daily exercise. Allowance shall be made for personal interactions and group-oriented activities. In areas outside of housing, the department shall maintain sight and sound separation between youthful and adult inmates or shall provide direct staff supervision when youthful inmates have sight, sound, or physical contact with adult inmates.

E. Staff Training

- a. Staff who work with youthful inmates shall receive training in the developmental, safety, and other specific needs of youthful inmates. The training should include the following subjects:
  1. adolescent development
  2. educational programming
  3. cultural awareness
  4. crisis prevention and intervention
  5. legal issues
  6. housing and physical plant
  7. policies and procedures
  8. the management of and programming for sex offenders
  9. substance-abuse services
  10. cognitive-behavioral interventions, including anger management, social-skills training, problem solving, and resisting peer pressure
  11. suicide prevention
  12. nutrition
  13. mental-health issues
  14. gender-specific issues
  15. case-management planning and implementation
- b. Staff positions specifically assigned to youthful inmate housing or which are responsible for programming for youthful inmates shall have functional job descriptions and qualifications which require the training designated for working with youthful inmates and such staff shall complete such training before being assigned to work with youthful inmates.

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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Youthful Inmates

**NUMBER:** 19-26

**SUPERSEDES:** 18-48

**APPLICABILITY:** All Employees

**REFERENCE:** AR 802-Classification of  
Offenders

**PAGE 1 of 3**

**APPROVED:** Original signed by Dexter Payne

**EFFECTIVE DATE:** 9/5/2019

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### **I. POLICY:**

The Arkansas Division of Correction will ensure that youthful inmates are assigned to a specialized housing unit in order to provide the proper programs and the direct supervision necessary to ensure safety and security.

### **II. PURPOSE:**

To provide effective intervention programming for youthful inmates transitioning into the adult system within the Division of Correction. The goal of the program is to provide a safe environment and programming designed to build strong character while providing an opportunity for each inmate to reach his or her full potential as a responsible law-abiding citizen and to reduce recidivism.

### **III. DEFINITIONS:**

1. **Direct Staff Supervision** – a method of inmate supervision designed to assure safety and security in which security staff are in the same room with, or within reasonable hearing distance of the inmate.
2. **Youthful Inmate** - Any inmate under the age of 18.
3. **Youthful Inmate Housing** – a housing unit where youthful inmates will not have sight, sound, or physical contact with any adult inmate through the use of a shared dayroom or other common space, shower area,

or sleeping quarters, and which provides for direct staff supervision of youthful inmates.

#### **IV. PROCEDURE:**

##### **A. Intake Procedure**

The intake process for male and female youthful inmates will occur at the units specified by the Department for male and female intake, respectively.

##### **B. Housing**

1. Youthful Inmates shall not be housed in punitive housing or restrictive housing more than twenty-four (24) hours except when:
  - a. A physical or sexual assault has been committed by the youthful inmate
  - b. Conduct of the youthful inmate poses a direct threat to the safety of another person or clear threat to the safe and secure operation of the unit; or
  - c. The youthful inmate escapes or attempt to escape from the facility
  - d. For any youthful inmate housed in punitive housing or restrictive housing, the Warden or designee will provide a written authorization stating the specific reasons for housing the youthful inmate outside of the youthful inmate housing. The statement shall include a release plan specifying what behaviors need to be modified and under what conditions the youthful inmate may be returned to the general population youthful inmate housing area.
  - e. The Warden or designee will provide a written authorization for every twenty-four (24) hour period during which the youth inmate remains in punitive housing or restrictive housing after the initial twenty-four (24) hour placement.

##### **C. Classification**

The Warden/Deputy Warden of any Division of Correction facility that houses youthful inmates shall appoint an officer (generally the Classification Officer) to provide for a classification plan for each youthful inmate including a determination of level of risk and program needs developmentally appropriate for adolescents. Classification plans for a youthful inmate shall include consideration of the physical, mental, social, and educational maturity of the youthful inmate.

D. Programming

Adequate program space shall be provided to meet the physical, social, and emotional needs of each youthful inmate, including daily exercise. Allowance shall be made for personal interactions and group-oriented activities. In areas outside of housing, the department shall maintain sight and sound separation between youthful and adult inmates or shall provide direct staff supervision when youthful inmates have sight, sound, or physical contact with adult inmates.

E. Staff Training

- a. Staff who work with youthful inmates shall receive training in the developmental, safety, and other specific needs of youthful inmates. The training should include the following subjects:

1. adolescent development
2. educational programming
3. cultural awareness
4. crisis prevention and intervention
5. legal issues
6. housing and physical plant
7. policies and procedures
8. the management of and programming for sex offenders
9. substance-abuse services
10. cognitive-behavioral interventions, including anger management, social-skills training, problem solving, and resisting peer pressure
11. suicide prevention
12. nutrition
13. mental-health issues
14. gender-specific issues
15. case-management planning and implementation

- b. Staff positions specifically assigned to youthful inmate housing or which are responsible for programming for youthful inmates shall have functional job descriptions and qualifications which require the training designated for working with youthful inmates and such staff shall complete such training before being assigned to work with youthful inmates.



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Punitive Housing/Restriction

**NUMBER:** 19-

**SUPERSEDES:** 18-35

**APPLICABILITY:** To All Employees, Especially  
Those Involved in the Operation of  
Punitive Housing and Inmates

**REFERENCE:** AR 839 – Punitive Segregation

**PAGE:** 1 of 99

**APPROVED:** Original Signed by

**EFFECTIVE DATE:**

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### I. POLICY:

It shall be the policy of the ~~Department~~ Division of Correction to provide safe, secure housing for inmates who require a higher degree of physical control because they have been found guilty of committing serious rule violations. This policy applies to both punitive isolation and the punitive restriction portion of a disciplinary sentence and is not meant to add to or negate any restrictions imposed by the Disciplinary Hearing Officer; nor does it negate required review by healthcare, classification, and other staff.

### II. PURPOSE:

Any inmate who has been found guilty of violating departmental rules and regulations may be placed in punitive housing after an impartial due process hearing pursuant to procedures in the Disciplinary Manual and shall be subject to the following restrictions and/or conditions of confinement while in punitive housing. Punitive measures may include punitive housing or punitive restriction.

### III. DEFINITIONS:

Punitive Housing- A separate housing used for inmates, who have been found guilty of a disciplinary violation.

Punitive Restriction- A status assignment for inmates who have received punitive housing as a sanction, but are not being housed in an isolation area.

48 Hour Relief- An inmate in punitive housing will receive a 48 hour period after each 30 days of being housed in punitive housing, unless the inmate is released to another area.

Youthful Inmate - Any inmate under the age of 18.

### IV. PROCEDURES:

#### A. Restrictions and/or Conditions of Confinement

When an inmate is found guilty of a major infraction of institutional rules and punitive housing time is imposed; the inmate may be placed in punitive housing or placed on punitive restriction and be subject to the limitations of that assignment. Any exception or deviation from this policy must be authorized by the Director.

1. Mail – Inmates in punitive housing or on punitive restriction will be allowed to send and receive letters on the same basis as inmates in the general population. This will include both general and privileged correspondence.
2. Newspapers/Magazines – Inmates will not be able to receive newspapers or magazines in punitive housing or on punitive restriction. During their forty-eight (48) hour relief, inmates will be allowed to receive the two (2) most current newspapers and magazines on a one-for-one exchange basis.
3. Visitation – Inmates in punitive housing or on punitive restriction have opportunities for visitation unless there are substantial reasons for withholding such privileges. Visits will be conducted for two (2) hours, once a month (calendar) and scheduled at least twenty-four (24) hours in advance. The Warden or designee must approve all such visits. Approval will be contingent upon but not limited to:
  - a. Nature of rule violation.

- b. No further rule violations while housed in punitive housing or on punitive restriction.
  - c. Satisfactory cell inspection reports.
  - d. A legal visit may be approved in advance by the Warden/Center Supervisor. This is only to be done when the attorney can justify the urgency of the legal matter prior to the release from punitive status, with the consistent need for good security.
4. Exercise – Inmates in punitive housing or on punitive restriction will be offered a minimum of one (1) hour of exercise per day outside of their cells, five (5) days per week, unless security or safety considerations dictate otherwise.
  - a. The exercise periods are to be conducted outside, security and weather permitting. During inclement weather, coats and raincoats are available.
  - b. During these exercise periods, the inmate will not be afforded any recreational equipment, television, or radio.
  - c. Exercise periods should be documented. Any imposition of constraint during the exercise period will be justified and documented.
  - d. Inmates on restricted recreation will remain in restraints during these periods, but may exercise in the punitive housing cell.
5. Commissary- Inmates on forty-eight (48) hour relief will be allowed to purchase commissary items, authorized personal hygiene items and legal supplies listed in the Personal Property Section of this policy a minimum of once every thirty (30) days. Purchase limit shall not exceed ten dollars (\$10.00). Legal supplies may be purchased more often if the inmate can document a valid need. Inmates violating any restrictions will be subject to additional disciplinary action.
6. Mattresses – Inmates in punitive housing will not be allowed to have mattresses in the cells between the hours of approximately 7:00 a.m. and 7:00 p.m. daily.
7. Showers – Males inmates in punitive housing will be afforded the opportunity to shave and shower a minimum of three (3) times per week. Female inmates will be afforded the opportunity to shave once a week and shower a minimum of three (3) times per week.

Exceptions are permitted when found necessary by the senior officer on duty. All exceptions will be recorded in the log and justified in writing.

8. Law Library – After having been in punitive housing for twenty days, inmates may order legal materials from the law library if just cause or adequate need arises for legal material to be delivered once per week.

**EXCEPTION: Legal materials will be made readily accessible to those inmates who need to meet statutory or court-imposed deadlines.**

9. Personal Property – Inmates sentenced to punitive housing are not allowed personal property; thereby, personal property will be inventoried in accordance with appropriate policy addressing inmate property control. While in punitive housing, the inmate will only be allowed to have the following items, contingent upon security considerations.
- a. Legal materials/Religious text – only that amount of legal material which can be kept neat and orderly and does not clutter the cell, plus one religious text (i.e., Bible, Koran, etc.)
  - b. Soap
  - c. Dental Hygiene Items
  - d. Wash Cloth
  - e. Self-improvement Reading Materials Provided by Treatment Services (one)
  - f. Comb (no pick)
  - g. Deodorant
  - h. Sanitary Napkins (females)
  - i. Paper
  - j. Flex pen
  - k. Stamped Envelopes/Legal Envelopes
  - l. Shampoo (female inmates only)
  - m. Conditioner (female inmates only)



- n. Consumable items (during forty-eight (48) hour relief only)
- o. Medications as authorized in Paragraph #18

Toilet paper will be issued in increments by the punitive area supervisor on an as-needed basis.

10. Telephones – Inmates will not be afforded telephone privileges. Inmates may make attorney calls when a need can be verified that will not wait until the conclusion of punitive confinement.
11. Religious Services – Inmates in punitive housing will not be allowed to participate in group religious activities. A religious leader approved by the Department will be available upon request for one-on-one visits, at the inmate's cell, subject to approval by the Warden. A departmental chaplain must make rounds in punitive housing at least once per week.  
  
Provisions will be made for Muslim inmates to participate in the Ramadan Fast.
12. Meritorious Good Time – Inmates in punitive housing or on punitive restriction will not earn good time.
13. Work Assignment – Inmates in punitive housing will not have work assignments.
14. Library – Inmates in punitive housing will not have regular library privileges.
15. Program Activities – Inmates in punitive housing will not be allowed to participate in any group program activities (i.e., Inmate Council, SATP, Education, Movies, etc.).
16. Clothing – Inmates in punitive housing will be provided one jump suit and appropriate undergarments at shower time. The only footwear permitted will be state issued canvas or approved medical footwear.
17. Paper and Pen – Inmates in punitive housing will be allowed to purchase flex pens and/or paper through the commissary at least once monthly or more often if a need is documented and validated. The Restricted Housing Supervisor or Chief Security Officer will review all such requests.

18. Medical – All inmates who are segregated from the general population will be evaluated by qualified health personnel prior to placement in punitive isolation and daily rounds will be made in punitive housing areas by medical staff. The pre-placement health evaluation is to ensure the inmate does not have any medical conditions contradictory to such placement, and to screen for mental health referrals. Any referrals to mental health shall be made to the mental health supervisor and/or the on-call mental health staff. The pre-placement will be documented in the inmate's health record.

Sick call and pill call will be held as often as required by the medical staff. Only emergency medications authorized by the Regional Medical Director, such as inhalers and nitroglycerin, will be kept in a punitive cell.

19. Food – Food will be served in accordance with the appropriate policy addressing food services. Disposable utensils may be utilized. Meals will be served in the cells. Inmates on punitive will not be served seconds.

Alternative meal service may be provided to an inmate in punitive housing who uses food or food service equipment in a manner that is hazardous to self, staff, or other inmates. Alternative meal service is on an individual basis, is based on health and/or safety considerations only, meets basic nutritional requirements, and occurs with the written approval of the Warden and responsible health authority. The substitution period shall not exceed (7) seven days, but may be resumed, as warranted, following one regular tray, absent a special treatment plan.

20. Mental Health Counseling – Mental health counseling may be coordinated between mental health personnel and the Warden. A departmental mental health counselor must make rounds in punitive housing areas no less than three (3) times per week, on Monday, Wednesday, and Friday, and will ensure that all inmates reassigned from population to a lock-down status since the last round are seen. Additionally, mental health staff will see an inmate assigned to restrictive/punitive housing during normal working hours before leaving the unit and assess the inmate utilizing the Restricted Housing Review Form (MHS-1139.00) when notified of concerns by unit staff or medical staff. After normal working hours and on holidays or weekends, on-call mental health staff shall assess each inmate on whom notification has been received from unit staff or medical staff to determine if the inmate needs to be placed on treatment precaution status per mental health policy. Documentation must be placed in the electronic health record.

22. Cleanliness/Grooming - Inmates assigned to punitive housing are expected to comply with the Department's policy concerning personal cleanliness and grooming for inmates. If an inmate's personal cleanliness and/or grooming falls below the Department's standard, the Chief of Security may order that necessary steps be taken to enforce compliance. Failure to abide by grooming standards is grounds for disciplinary action.

#### B. Staff Responsibilities

The Warden, Deputy/Assistant Warden, or Chief of Security Officer will visit punitive punitive at least once per week. In addition, the Duty Warden will visit punitive isolation each weekend. He/She will pay special attention to those inmates assigned to mental health "Treatment Precaution," (i.e., Restriction Status or Restraint Status), and will follow those instructions outlined below under Paragraph #5, "Special Note."

The Punitive Area Supervisor will be responsible for assuring that:

1. Each punitive cell has lights, toilet, and lavatory in good working condition. Each punitive cell shall have a bunk.
2. All inmates working in the punitive area shall be under constant staff supervision.
3. Shake-downs are conducted in accordance with the appropriate policy addressing searches. All restrictive housing cells on punitive are searched on a non-regular basis at least three times a week and documented.
4. A log is maintained on all movement of inmates on punitive housing status.
5. Each cell in punitive housing shall be checked by an officer twice an hour and no more than 40 minutes apart.

Officers will note if the inmate is complying with the Department's cleanliness and/or grooming standards. Likewise, each cell will be checked to make certain the cell is clean and sanitary. If the condition of the inmate or the cell is not in compliance with Department standards, the Chief of Security, or designee, will be notified immediately and will take necessary steps to correct the problem.

“Special Note:” For those inmates assigned to punitive housing and under “Treatment Precaution,” (i.e., Restriction Status or Restraint Status), the punitive area supervisor will ensure staff initial in the Treatment Precaution Log indicating that the inmate and his/her cell have been checked and the inmate is in a satisfactory condition and the cell is in compliance with the Department’s cleanliness and sanitation standards.

6. An inmate, who received punitive time while in general population can only be housed in the same cell as an inmate, if it is an inmate who received punitive time while in general population.

### C. Periods of Confinement

1. Inmates may be confined to punitive housing due to a pending disciplinary.

Inmates serving punitive housing that exceeds thirty days will receive a forty-eight (48) hour relief at the end of each thirty (30) days of punitive housing assignment. Inmate privileges as previously outlined in this policy will be restored during the forty-eight (48) hour relief period. An inmate’s telephone privilege will not be restored during the forty-eight (48) hour relief if the privilege was suspended due to a conviction of disciplinary rule violation 02-5 or 09-15. Commissary purchases up to \$10.00 may be made by an inmate only if the inmate’s forty-eight (48) hour relief falls on their regularly scheduled commissary day, and will be limited to a quantity that can reasonably be consumed in forty-eight (48) hours. Inmates on 48 hour relief are only allowed to receive property that is allowed in Restrictive Housing.

2. Inmates may be released from punitive housing prior to the completion of sentence only with the authorization of the Warden or designee. This will not relieve the inmate from punitive restrictions unless specifically ordered by the Warden or designee.
3. A youth~~ful~~ inmate shall not be placed in punitive housing as a disciplinary measure for more than twenty-four (24) hours unless:
  - a. A physical or sexual assault has been committed by the youthful inmate
  - b. The conduct of the youth~~ful~~ inmate poses a direct threat to the safety of another person or clear threat to the safe and secure operation of the unit; ~~or-~~

- c. The youthful inmate escaped or attempted to escape from the unit.

**Note:** Refer to the Youthful Inmate Administrative Directive for procedures pertaining to the housing of youthful inmates ~~housed in punitive housing~~.

#### D. Punitive Restriction

1. Inmates on punitive restriction will have a work assignment and will be required to work on their assigned job. Inmates on punitive restrictions may have their privileges restored prior to the completion of their punitive sentence only with the authorization of the Warden or designee.

Inmates serving consecutive punitive restrictions will not receive a forty-eight (48) hour relief at the end of each thirty (30) day period; however, the inmate may purchase personal hygiene items and legal supplies up to \$10 per week on their regular commissary day.

2. Inmates working on their assignments without additional disciplinarys will receive credit toward reclassification (promotion in class) as other inmates working on their assignments. Inmates will not receive a class upgrade while on punitive restriction status.

#### E. Review of Punitive Housing Status

1. No inmate shall remain in punitive housing for more than one year unless has been personally interviewed by the Warden at the end of one year. The Warden at this time will review the possibilities of a punitive reduction plan. At the end of the second and each additional year that an inmate remains in punitive housing, he must be personally interviewed by both the Warden and the Deputy/Assistant Director, who will then determine whether continuation in that status is necessary and/or appropriate.
2. For any youthful inmate housed in punitive housing or restrictive housing, the Warden or ~~the Warden~~-designee shall will provide a written authorization stating the specific reasons for housing the youthful inmate outside of the youthful inmate housing. The statement shall include a ease management release plan specifying what behaviors need to be modified and under what conditions the youthful inmate may be returned to the general population -youthful inmate housing are. The Warden or the Warden designee shall will provide ~~the a~~ written authorization for every twenty-four (24) hour period during which the youth inmate remains in punitive housing or restrictive housing after the initial twenty-four (24) hour placements.





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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Punitive Housing/Restriction

**NUMBER:** 19-27

**SUPERSEDES:** 18-35

**APPLICABILITY:** To All Employees, Especially  
Those Involved in the Operation of  
Punitive Housing and Inmates

**REFERENCE:** AR 839 – Punitive Segregation

**PAGE:** 1 of 9

**APPROVED:** Original Signed by Dexter Payne

**EFFECTIVE DATE:** 9/5/2019

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### **I. POLICY:**

It shall be the policy of the Division of Correction to provide safe, secure housing for inmates who require a higher degree of physical control because they have been found guilty of committing serious rule violations. This policy applies to both punitive isolation and the punitive restriction portion of a disciplinary sentence and is not meant to add to or negate any restrictions imposed by the Disciplinary Hearing Officer; nor does it negate required review by healthcare, classification, and other staff.

### **II. PURPOSE:**

Any inmate who has been found guilty of violating departmental rules and regulations may be placed in punitive housing after an impartial due process hearing pursuant to procedures in the Disciplinary Manual and shall be subject to the following restrictions and/or conditions of confinement while in punitive housing. Punitive measures may include punitive housing or punitive restriction.

### III. DEFINITIONS:

Punitive Housing- A separate housing used for inmates, who have been found guilty of a disciplinary violation.

Punitive Restriction- A status assignment for inmates who have received punitive housing as a sanction, but are not being housed in an isolation area.

48 Hour Relief- An inmate in punitive housing will receive a 48 hour period after each 30 days of being housed in punitive housing, unless the inmate is released to another area.

Youthful Inmate - Any inmate under the age of 18.

### IV. PROCEDURES:

#### A. Restrictions and/or Conditions of Confinement

When an inmate is found guilty of a major infraction of institutional rules and punitive housing time is imposed; the inmate may be placed in punitive housing or placed on punitive restriction and be subject to the limitations of that assignment. Any exception or deviation from this policy must be authorized by the Director.

1. Mail – Inmates in punitive housing or on punitive restriction will be allowed to send and receive letters on the same basis as inmates in the general population. This will include both general and privileged correspondence.
2. Newspapers/Magazines – Inmates will not be able to receive newspapers or magazines in punitive housing or on punitive restriction. During their forty-eight (48) hour relief, inmates will be allowed to receive the two (2) most current newspapers and magazines on a one-for-one exchange basis.
3. Visitation – Inmates in punitive housing or on punitive restriction have opportunities for visitation unless there are substantial reasons for withholding such privileges. Visits will be conducted for two (2) hours, once a month (calendar) and scheduled at least twenty-four (24) hours in advance. The Warden or designee must approve all such visits. Approval will be contingent upon but not limited to:
  - a. Nature of rule violation.



- b. No further rule violations while housed in punitive housing or on punitive restriction.
  - c. Satisfactory cell inspection reports.
  - d. A legal visit may be approved in advance by the Warden/Center Supervisor. This is only to be done when the attorney can justify the urgency of the legal matter prior to the release from punitive status, with the consistent need for good security.
4. Exercise – Inmates in punitive housing or on punitive restriction will be offered a minimum of one (1) hour of exercise per day outside of their cells, five (5) days per week, unless security or safety considerations dictate otherwise.
  - a. The exercise periods are to be conducted outside, security and weather permitting. During inclement weather, coats and raincoats are available.
  - b. During these exercise periods, the inmate will not be afforded any recreational equipment, television, or radio.
  - c. Exercise periods should be documented. Any imposition of constraint during the exercise period will be justified and documented.
  - d. Inmates on restricted recreation will remain in restraints during these periods, but may exercise in the punitive housing cell.
5. Commissary- Inmates on forty-eight (48) hour relief will be allowed to purchase commissary items, authorized personal hygiene items and legal supplies listed in the Personal Property Section of this policy a minimum of once every thirty (30) days. Purchase limit shall not exceed ten dollars (\$10.00). Legal supplies may be purchased more often if the inmate can document a valid need. Inmates violating any restrictions will be subject to additional disciplinary action.
6. Mattresses – Inmates in punitive housing will not be allowed to have mattresses in the cells between the hours of approximately 7:00 a.m. and 7:00 p.m. daily.
7. Showers – Males inmates in punitive housing will be afforded the opportunity to shave and shower a minimum of three (3) times per week. Female inmates will be afforded the opportunity to shave once a week and shower a minimum of three (3) times per week.

Exceptions are permitted when found necessary by the senior officer on duty. All exceptions will be recorded in the log and justified in writing.

8. Law Library – After having been in punitive housing for twenty days, inmates may order legal materials from the law library if just cause or adequate need arises for legal material to be delivered once per week.

**EXCEPTION: Legal materials will be made readily accessible to those inmates who need to meet statutory or court-imposed deadlines.**

9. Personal Property – Inmates sentenced to punitive housing are not allowed personal property; thereby, personal property will be inventoried in accordance with appropriate policy addressing inmate property control. While in punitive housing, the inmate will only be allowed to have the following items, contingent upon security considerations.
  - a. Legal materials/Religious text – only that amount of legal material which can be kept neat and orderly and does not clutter the cell, plus one religious text (i.e., Bible, Koran, etc.)
  - b. Soap
  - c. Dental Hygiene Items
  - d. Wash Cloth
  - e. Self-improvement Reading Materials Provided by Treatment Services (one)
  - f. Comb (no pick)
  - g. Deodorant
  - h. Sanitary Napkins (females)
  - i. Paper
  - j. Flex pen
  - k. Stamped Envelopes/Legal Envelopes
  - l. Shampoo (female inmates only)
  - m. Conditioner (female inmates only)

- n. Consumable items (during forty-eight (48) hour relief only)
- o. Medications as authorized in Paragraph #18

Toilet paper will be issued in increments by the punitive area supervisor on an as-needed basis.

10. Telephones – Inmates will not be afforded telephone privileges. Inmates may make attorney calls when a need can be verified that will not wait until the conclusion of punitive confinement.
11. Religious Services – Inmates in punitive housing will not be allowed to participate in group religious activities. A religious leader approved by the Department will be available upon request for one-on-one visits, at the inmate's cell, subject to approval by the Warden. A departmental chaplain must make rounds in punitive housing at least once per week.  
  
Provisions will be made for Muslim inmates to participate in the Ramadan Fast.
12. Meritorious Good Time – Inmates in punitive housing or on punitive restriction will not earn good time.
13. Work Assignment – Inmates in punitive housing will not have work assignments.
14. Library – Inmates in punitive housing will not have regular library privileges.
15. Program Activities – Inmates in punitive housing will not be allowed to participate in any group program activities (i.e., Inmate Council, SATP, Education, Movies, etc.).
16. Clothing – Inmates in punitive housing will be provided one jump suit and appropriate undergarments at shower time. The only footwear permitted will be state issued canvas or approved medical footwear.
17. Paper and Pen – Inmates in punitive housing will be allowed to purchase flex pens and/or paper through the commissary at least once monthly or more often if a need is documented and validated. The Restricted Housing Supervisor or Chief Security Officer will review all such requests.

18. Medical – All inmates who are segregated from the general population will be evaluated by qualified health personnel prior to placement in punitive isolation and daily rounds will be made in punitive housing areas by medical staff. The pre-placement health evaluation is to ensure the inmate does not have any medical conditions contradictory to such placement, and to screen for mental health referrals. Any referrals to mental health shall be made to the mental health supervisor and/or the on-call mental health staff. The pre-placement will be documented in the inmate's health record.

Sick call and pill call will be held as often as required by the medical staff. Only emergency medications authorized by the Regional Medical Director, such as inhalers and nitroglycerin, will be kept in a punitive cell.

19. Food – Food will be served in accordance with the appropriate policy addressing food services. Disposable utensils may be utilized. Meals will be served in the cells. Inmates on punitive will not be served seconds.

Alternative meal service may be provided to an inmate in punitive housing who uses food or food service equipment in a manner that is hazardous to self, staff, or other inmates. Alternative meal service is on an individual basis, is based on health and/or safety considerations only, meets basic nutritional requirements, and occurs with the written approval of the Warden and responsible health authority. The substitution period shall not exceed (7) seven days, but may be resumed, as warranted, following one regular tray, absent a special treatment plan.

20. Mental Health Counseling – Mental health counseling may be coordinated between mental health personnel and the Warden. A departmental mental health counselor must make rounds in punitive housing areas no less than three (3) times per week, on Monday, Wednesday, and Friday, and will ensure that all inmates reassigned from population to a lock-down status since the last round are seen. Additionally, mental health staff will see an inmate assigned to restrictive/punitive housing during normal working hours before leaving the unit and assess the inmate utilizing the Restricted Housing Review Form (MHS-1139.00) when notified of concerns by unit staff or medical staff. After normal working hours and on holidays or weekends, on-call mental health staff shall assess each inmate on whom notification has been received from unit staff or medical staff to determine if the inmate needs to be placed on treatment precaution status per mental health policy. Documentation must be placed in the electronic health record.

22. Cleanliness/Grooming - Inmates assigned to punitive housing are expected to comply with the Department's policy concerning personal cleanliness and grooming for inmates. If an inmate's personal cleanliness and/or grooming falls below the Department's standard, the Chief of Security may order that necessary steps be taken to enforce compliance. Failure to abide by grooming standards is grounds for disciplinary action.

#### B. Staff Responsibilities

The Warden, Deputy/Assistant Warden, or Chief of Security Officer will visit punitive punitive at least once per week. In addition, the Duty Warden will visit punitive isolation each weekend. He/She will pay special attention to those inmates assigned to mental health "Treatment Precaution," (i.e., Restriction Status or Restraint Status), and will follow those instructions outlined below under Paragraph #5, "Special Note."

The Punitive Area Supervisor will be responsible for assuring that:

1. Each punitive cell has lights, toilet, and lavatory in good working condition. Each punitive cell shall have a bunk.
2. All inmates working in the punitive area shall be under constant staff supervision.
3. Shake-downs are conducted in accordance with the appropriate policy addressing searches. All restrictive housing cells on punitive are searched on a non-regular basis at least three times a week and documented.
4. A log is maintained on all movement of inmates on punitive housing status.
5. Each cell in punitive housing shall be checked by an officer twice an hour and no more than 40 minutes apart.

Officers will note if the inmate is complying with the Department's cleanliness and/or grooming standards. Likewise, each cell will be checked to make certain the cell is clean and sanitary. If the condition of the inmate or the cell is not in compliance with Department standards, the Chief of Security, or designee, will be notified immediately and will take necessary steps to correct the problem.

“Special Note:” For those inmates assigned to punitive housing and under “Treatment Precaution,” (i.e., Restriction Status or Restraint Status), the punitive area supervisor will ensure staff initial in the Treatment Precaution Log indicating that the inmate and his/her cell have been checked and the inmate is in a satisfactory condition and the cell is in compliance with the Department’s cleanliness and sanitation standards.

6. An inmate, who received punitive time while in general population can only be housed in the same cell as an inmate, if it is an inmate who received punitive time while in general population.

### C. Periods of Confinement

1. Inmates may be confined to punitive housing due to a pending disciplinary.

Inmates serving punitive housing that exceeds thirty days will receive a forty-eight (48) hour relief at the end of each thirty (30) days of punitive housing assignment. Inmate privileges as previously outlined in this policy will be restored during the forty-eight (48) hour relief period. An inmate’s telephone privilege will not be restored during the forty-eight (48) hour relief if the privilege was suspended due to a conviction of disciplinary rule violation 02-5 or 09-15. Commissary purchases up to \$10.00 may be made by an inmate only if the inmate’s forty-eight (48) hour relief falls on their regularly scheduled commissary day, and will be limited to a quantity that can reasonably be consumed in forty-eight (48) hours. Inmates on 48 hour relief are only allowed to receive property that is allowed in Restrictive Housing.

2. Inmates may be released from punitive housing prior to the completion of sentence only with the authorization of the Warden or designee. This will not relieve the inmate from punitive restrictions unless specifically ordered by the Warden or designee.
3. A youthful inmate shall not be placed in punitive housing as a disciplinary measure for more than twenty-four (24) hours unless:
  - a. A physical or sexual assault has been committed by the youthful inmate
  - b. The conduct of the youthful inmate poses a direct threat to the safety of another person or clear threat to the safe and secure operation of the unit; or

- c. The youthful inmate escaped or attempted to escape from the unit.

**Note:** Refer to the Youthful Inmate Administrative Directive for procedures pertaining to the housing of youthful inmates.

D. Punitive Restriction

1. Inmates on punitive restriction will have a work assignment and will be required to work on their assigned job. Inmates on punitive restrictions may have their privileges restored prior to the completion of their punitive sentence only with the authorization of the Warden or designee.

Inmates serving consecutive punitive restrictions will not receive a forty-eight (48) hour relief at the end of each thirty (30) day period; however, the inmate may purchase personal hygiene items and legal supplies up to \$10 per week on their regular commissary day.

2. Inmates working on their assignments without additional disciplinarys will receive credit toward reclassification (promotion in class) as other inmates working on their assignments. Inmates will not receive a class upgrade while on punitive restriction status.

E. Review of Punitive Housing Status

1. No inmate shall remain in punitive housing for more than one year unless has been personally interviewed by the Warden at the end of one year. The Warden at this time will review the possibilities of a punitive reduction plan. At the end of the second and each additional year that an inmate remains in punitive housing, he must be personally interviewed by both the Warden and the Deputy/Assistant Director, who will then determine whether continuation in that status is necessary and/or appropriate.
2. For any youthful inmate housed in punitive housing or restrictive housing, the Warden or designee will provide a written authorization stating the specific reasons for housing the youthful inmate outside of the youthful inmate housing. The statement shall include a release plan specifying what behaviors need to be modified and under what conditions the youthful inmate may be returned to the general population youthful inmate housing are. The Warden or the Warden designee will provide a written authorization for every twenty-four (24) hour period during which the youth inmate remains in punitive housing or restrictive housing after the initial twenty-four (24) hour placement.



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Restrictive Housing

**NUMBER:** 19-

**SUPERSEDES:** AD 17-31

**APPLICABILITY:** Director, Deputy/Assistant Directors,  
Warden/Center Supervisors, Employees  
involved in Segregation, and Inmates

**REFERENCE:** AR-836 Segregation;

**PAGE:** 1 of 1~~5~~<sup>4</sup>

AD 2014-08 Disciplinary Court Review;  
AD 2016-20 Punitive Segregation-Restriction;  
and AD 2017-03 Step-Down Program

**APPROVED:** Original Signed by

**EFFECTIVE DATE:**

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### I. POLICY:

It is the policy of the ~~Arkansas Department~~Division of Correction (ADC) to provide secure, safe housing to inmates who require a higher degree of physical control or who staff otherwise find necessary to remove from the general population of the facility. The policy is to limit the use of Restrictive Housing to the shortest period of time possible when it is used while maintaining a safe environment within the institutions.

Note: The use of “segregation” or administrative segregation” in existing policies also applies to inmates in “Restrictive Housing” or “Extended Restrictive Housing” unless this poses a conflict with this policy.

### II. EXPLANATION:

The Institutional Classification Committee or, in an emergency, the Warden/Center Supervisor or designee may place an inmate in Restrictive Housing (RH) if his/her continued presence in the general population poses a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility.



### III. DEFINITIONS:

1. **Administrative Status** – Separation from the general population by the classification committee or other authorized authority when the continued presence of the inmate in the general population poses a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility. Inmates pending investigation by the unit or law enforcement, pending trial on a criminal act, pending disciplinary court review, or pending transfer also can be included. While this status may be in restrictive housing, it is a temporary status and a release plan is not required while in this status.
2. **Restrictive Housing (RH)** – A placement that requires an inmate to be confined to a cell at least twenty-two (22) hours per day.
3. **Extended Restrictive Housing** – Placement in housing that separates the inmate from contact with general population while restricting an inmate to his/her cell for twenty-two (22) hours per day and for thirty (30) days or longer for the safe and secure operation of the facility. A 48-hour relief does not end Extended Restrictive Housing because the inmate is not returned to general population during this time.
4. **Restrictive Recreation** – An status assignment allowing the Classification Committee or Warden to assign an inmate to be kept in full restraints during the inmate's scheduled recreation period if his/her actions pose a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility. These actions include but are not limited to: tampering with, or blocking, any lock or locking device; tampering or manipulating any recreation enclosure or Restricted Housing recreation area; running from, avoiding or otherwise resisting apprehension; aggravated battery to include attempted battery or battery on staff or inmates; and attempts to remove or manipulate restraints.
5. **Serious Mental Illness** – Psychotic, Bipolar, and Major Depressive Disorders and any other diagnosed mental disorder (excluding substance use disorders) associated with serious behavioral impairment as evidenced by examples of acute decompensation, self-injurious behaviors, and mental health emergencies that require an individualized treatment plan by a qualified mental health professional.
6. **Step-Down Program** – A system of review that establishes criteria to prepare an inmate for transition from restrictive housing to general population or the community. A classification committee made up of a multidisciplinary team (medical, mental health, security, and others determined by the Warden) will determine which individual inmates enter the program.
7. **Protective Custody** – Form of separation from the general population for inmates requesting or requiring protection from other inmates for reasons of health or safety. The classification committee reviews the inmate's status periodically. Inmates assigned to protective custody are not assigned to restrictive housing due to this status alone. Inmates placed in restrictive housing must be transferred out of restrictive housing within three (3) business days when placement is due to protective custody status alone absent approval by the appropriate Deputy Director.

8. **Disciplinary Court Review (DCR)** – The confinement of an inmate in restrictive housing until a disciplinary hearing is completed due to an alleged disciplinary infraction.
9. **Placement** – Removal of an inmate from general population to a restrictive housing assignment. (twenty-four (24) hour review required)
10. **Assignment** – A decision by the Institutional Classification Committee that restrictive housing is appropriate.
11. **Release Plan** – The steps the inmate needs to take to be released to general population which may include one or more of the following as examples: a certain number of disciplinary free days, completion of disciplinary sanctions, completion of anger management, thinking errors, and/or a step-down program.
12. **Reentry Plan** – A pre-release assessment and plan that includes at a minimum a review of parole stipulations and program referrals, transportation to the inmate’s closest commercial pick-up point, information on community services available in the area, and information on how to reinstate voting rights upon discharge of their sentence.
13. **Youthful Inmate** - Any inmate under the age of 18.

#### IV. **PROCEDURES:**

##### A. Initial Placement:

1. Upon the determination that the inmate poses a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility, the Chief Security Officer on duty (shift supervisor) may place the inmate in Restrictive Housing.
2. Any inmate placement in restrictive housing will be approved, denied, or modified within twenty-four (24) hours by an appropriate and higher authority who was not involved in the initial placement. -The higher authority shall, after reviewing the inmate’s status, either release him/her from the Restrictive Housing area or retain him/her in the Restrictive Housing area and refer the inmate to the next regularly scheduled meeting of the Classification Committee.
3. The Classification Committee will hold the hearing to determine assignment within seven (7) days of placement and after the inmate has received written notice, along with other provisions listed above.
4. A youthful inmate ~~wilshall~~ not be placed in restrictive housing as a disciplinary measure for more than twenty-four (24) hours unless:

~~a. The inmate has committed a~~A physical or sexual assault; ~~has been committed by the youthful inmate~~

~~b.a.~~

~~e.b.~~ The conduct of the ~~youth~~-inmate poses a direct threat to the safety of a person or clear threat to the safe and secure operation of the unit; ~~or-~~

~~d.c.~~ The ~~youthful~~-inmate escaped or attempted to escape from the unit.

**Note:** ~~R~~refer to the Youthful Inmate Administrative Directive for procedures pertaining to the housing of youthful inmates ~~housed in restrictive housing~~.

B. Institutional Classification Committee Procedures for assignment to Restrictive Housing:

1. The inmate will be given a meaningful hearing before the Classification Committee within seven (7) days of placement in restrictive housing.
2. The inmate will receive written notification of the hearing not less than twenty-four (24) hours prior to the hearing.
3. The inmate will be allowed to appear before the committee, to make any relevant statement, and to present related documentary evidence.
4. Assignment to restrictive housing will be made by a majority vote of the committee.
5. The inmate will be advised of the reasons for his/her assignment to restrictive housing and the steps he/she needs to take to be released to general population which may include a step-down program. ~~Both the reason for assignment and the method to earn release will be provided to the inmate in writing and a copy of the reasons will be maintained in the inmate's electronic file. All decisions may be subject to review and approval or disapproval by the Warden or his/her designee.~~
6. Any inmate who is potentially dangerous to himself/herself shall immediately be placed in Restrictive Housing and evaluated by Mental Health Staff the same business day or within four (4) hours.
7. Any inmate who exhibits chronic unruly behavior shall be evaluated by the Mental Health Staff upon request by the Warden or his/her designee. ~~The results of the evaluation shall be considered by the Classification Committee in determining the Restrictive Housing status of the inmate.~~
8. Confinement of the following inmates in Extended Restrictive Housing is prohibited:
  - a. Inmates under the age of eighteen (18) years of age;
  - b. Pregnant inmates; and
  - c. Inmates who are Seriously Mentally Ill (SMI)

9. An inmate will not be placed in Restrictive Housing based on Gender Identity alone.

C. Administrative Status:

1. An inmate that poses a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility, can be placed in restrictive housing on administrative status due to one of the following:
  - a. Pending trial on a criminal act, placement is not to exceed three (3) business days following a court decision.
  - b. Pending disciplinary court review, placement is not to exceed fourteen (14) days. If the disciplinary action is dismissed prior to a disciplinary hearing, the inmate must be released from DCR status and appropriately reassigned.
  - c. Pending transfer to another unit, placement is not to exceed three (3) business days absent approval from the appropriate Deputy Director.
  - d. Pending investigation by unit staff, Internal Affairs, or Arkansas State Police not to exceed three (3) business days which may be extended by the Warden or designee. The extension approved by the Warden or Deputy/Assistant Warden may not exceed five (5) working days per extension. If there are more than four extensions, they must have the approval of the Director. Extensions can only be made for one of the following reasons:
    - i. An inmate who is suspected of having information which would aid in the resolution of the investigation is unavailable for interview by appropriate authorities.
    - ii. Awaiting information, documents and/or decisions which would aid in the resolution of the investigation, from appropriate authorities.
    - iii. The case requires more extensive investigation.
2. For inmates on Administrative Status, these procedures will be followed except that this status is temporary and a release plan is not necessary while in this status.

D. Controls and Privileges while in Restrictive Housing:

1. Housing in a separate area of the institution determined by the Warden.
2. Work duties, if assigned, within the limits of the inmate's medical classification/restrictions.

3. Regularly scheduled meals - may be served in cells.
4. Television, radio, MP4, and/or tablet privileges may be denied only upon documentation of the reason(s) in each inmate's record. (Note: Separate documentation is not required when class status required for the privilege does not exist, or a disciplinary restriction is in the inmate's record.
5. Institutional activities as approved by the Warden.
6. Regular mail privileges.
7. Chaplains will visit the restrictive housing area at least weekly and upon request.
8. Visits may be in a separate visiting room and will be conducted in the presence of an officer.
9. Although no razors will be allowed, inmates will have the opportunity to groom facial hair and shower a minimum of three times per week. Barbering and hair care services should be available on the same basis as general population except that no razors will be allowed. Exceptions to the schedule are permitted when found necessary by the senior officer on duty. All exceptions will be recorded in the log and justified in writing.
10. Referrals to medical, dental or mental health services are the same as general population; the referrals can be through sick call/health services request or by staff for medical emergencies. Inmates in Restrictive Housing are provided medication as prescribed.
11. Opportunity for exercise, a minimum of one (1) hour of exercise per day five (5) days per week, unless security or safety dictates otherwise. -Opportunities to exercise outdoors, weather permitting. Reasons for the imposition of any constraints should be documented in the log and justified in writing. -Inmates who have out-of-cell work assignments are not required to receive the one-hour exercise period.
12. Commissary purchases will be limited to \$10 weekly due to security requirements on inmates in restrictive housing. -Items not allowed include ice cream, razors, sharp objects, canned items, and others as designated in writing by unit policies.
13. Appropriate clothing is to be issued. -Jumpsuits may replace pants/tops due to strings or belts necessary for pants and other security concerns.
14. A reasonable amount of reading material and educational material approved by the Educational Department.
15. Bedding is to be changed weekly and weekly laundry services are to be provided.

16. Access to legal materials upon request and in accordance with unit policy.
17. Access to attorney of record via legal mail and telephone.
18. Inmates leaving or entering the restrictive housing unit must be thoroughly searched. -Those on restrictive housing status shall be escorted by two officers and under normal circumstances will be in restraints to and from their destination.
19. This list of controls and privileges does not govern inmates serving punitive restriction, participating or assigned to Step-Down Units, death row, and other special housing areas including Residential Programming Unit (RPU), VSM Program, infirmaries, and the hospital.
20. Restrictive Housing inmates are personally observed by a correctional officer twice per hour, but no more than forty (40) minutes apart, on an irregular schedule. -Inmates who are mentally disordered or who demonstrate unusual, bizarre, or self-injurious behavior receive more frequent observation as determined by a qualified mental health professional (minimal to constant); suicidal inmates are under continuous observation (directly or by monitored camera) while on treatment precautions. -Observation shall be documented in a log.

E. Review of Restrictive Housing Status:

1. The Classification Committee or authorized staff must review the status of every inmate assigned to restrictive housing classification every seven (7) days for the first sixty (60) days, and every thirty (30) days thereafter to determine if the reason(s) for assignment continues to exist. At every other (thirty) 30-day review, the inmate will be personally interviewed by the Classification Committee or authorized staff. -All reviews will be documented utilizing the appropriate segregation form, and all refusals by inmates will be signed by the inmate and at least one member of the classification committee who confirmed the refusal by speaking with the inmate. -Any inmate who advises the classification member that he/she did not refuse will be assigned to the next regularly scheduled classification meeting.
2. A mental health practitioner/provider completes a mental health appraisal and prepares a written report on all inmates placed in restrictive housing within seven (7) days of placement. -If confinement continues beyond thirty (30) days, a behavioral health assessment by a mental health practitioner/provider is completed at least every thirty (30) days for inmates with a diagnosed behavioral health disorder and more frequently if clinically indicated. -For inmates without a diagnosed behavioral health disorder, an assessment is completed every ninety (90) days and more frequently if clinically indicated. The evaluation will be conducted in a confidential area.

3. The Unit Warden or designee will review all committee recommendations for possible transfer to general population within five (5) days.
4. No inmate shall remain in a Restrictive housing for more than one year unless the Warden has personally interviewed him/her at the end of the year and approves the assignment. At the end of the second and each additional year that an inmate remains in a Restrictive housing, the Warden and the Deputy Director shall personally interview the inmate and determine whether the assignment is necessary and appropriate.
5. The calculation and scheduling of an inmate's Restrictive Housing hearing will not change if that inmate transfers to another unit and remains in restrictive housing.
6. Inmates assigned to Restrictive housing have the opportunity to participate in the Step-Down Program to assist with reintegration of the inmate into general population in accordance with his/her release plan or to the community in accordance with his/her Reentry plan.
7. The ~~Arkansas Department~~Division of Correction will attempt to ensure that inmates are not released directly into the community from Restrictive or Extended Restrictive Housing. In the event that the release of an inmate directly from Restrictive Housing into the community is imminent, the Unit Warden or designee will document the justification and receive approval from the appropriate Deputy Director. Additionally:
  - Classification will have verified that a Reentry Plan is in the Department's electronic offender management information system (eOMIS) at least one-hundred twenty (120) days prior to release. -The Reentry Plan will be tailored to specific needs of the inmate. -This does not apply to court orders for immediate release.
  - Notification of release to local law enforcement where the inmate intends to reside, and/or local law enforcement where the Department releases the inmate from custody.
  - Notify releasing inmate of applicable community resources as part of the Reentry Plan.
  - Victim Information and Notification Everyday (VINE) is made to those victims who have current information in VINE or eOMIS.
8. a. For any youthful inmate housed in punitive housing or restrictive housing, the

\_\_\_\_\_ Warden or ~~the Warden~~ designee ~~shall~~ will provide a written authorization stating the specific reasons for housing the youthful inmate outside of the general population youthful inmate housing area. The statement shall include a ~~case management release~~ plan specifying what \_\_\_\_\_ behaviors need to be modified and under what conditions the youthful inmate may \_\_\_\_\_ be returned to the general population youthful inmate housing area.

b. The Warden or ~~the Warden~~ designee ~~will~~ shall provide the written authorization for every twenty-  
\_\_\_\_\_ four (24) hour period during which the youthful inmate remains in punitive  
\_\_\_\_\_ housing or restrictive housing after the initial twenty-four (24) hour placements.

F. Restrictive Recreation:

A. Initial Placement:

1. Upon determination that the inmate poses a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility, the shift supervisor will notify the Warden, Deputy Warden, or Chief of Security to recommend an inmate's placement on Restrictive Recreation Status. The recommendation shall include all pertinent information regarding the request and be forwarded to the Warden for review and approval, unless the Warden approved the initial placement.
2. Once the Warden initially approves the use of Restrictive Recreation for an inmate, the Warden will contact the appropriate Deputy Director or the Duty Director, requesting final authorization. The request for authorization will be made within twenty-four (24) hours of the initial placement of an inmate on Restrictive Recreation Status and documented.
3. Any inmate placed on Restrictive Recreation Status will be scheduled to appear before the next regularly scheduled meeting of the unit's Classification Committee for review.

B. Institutional Classification Committee Procedures for Continued Placement on Restrictive Recreation Status

1. The inmate will be allowed to appear before the Classification Committee to make any relevant statements, and to present related documentary evidence. An inmate's refusal to appear before the committee will be documented in writing.
2. Continued placement will be made by majority vote of the committee.



3. The inmate will be advised in writing of the reasons for continued placement and the steps the inmate must take to be removed from Restrictive Recreation Status.
4. The inmate will be on staff restricted movement of a Lieutenant or above for the duration of the placement.

Note: The Lieutenant or above restriction will begin with the initial placement.

5. The Restrictive Recreation Status will be documented in the Case Notes Section of the inmate's electronic record and a Restrictive Recreation Precaution will also be entered. A handout on in-cell exercise shall be provided to the inmate upon request.
6. All decisions of the Classification Committee will be subject to review and approval or disapproval by the Warden or his/her designee.

C. Review of Restricted Recreation Status.

1. The Classification Committee or authorized staff, at the rank of Major or above, must review the status of each inmate placed on Restrictive Recreation every sixty (60) days following the initial Classification Committee Review. The status review will be documented in the Classification Committee Action Section of the inmate's electronic record.
2. The Warden or his/her designee will review all recommendations for possible release from restrictive recreation status.

Note: Upon release from restrictive housing an inmate will automatically be released from restrictive recreation status.

## RESTRICTIVE HOUSING PLACEMENT

Any placement requires a finding that this inmate's continued presence in the general population poses a serious threat to life, property, self, staff, other inmates, or to the security of the Unit

TO: \_\_\_\_\_

FROM: \_\_\_\_\_

DATE: \_\_\_\_\_

SUBJECT: \_\_\_\_\_ A.D.C. \_\_\_\_\_ is/was placed in restrictive housing on

\_\_\_\_\_ at \_\_\_\_\_ for the following reason(s):

- Administrative Status (Temporary):**
  - pending trial for a criminal act
  - pending disciplinary court review
  - pending transfer to another unit
  - pending investigation (Note: PREA victims cannot be placed in restrictive housing for more than three (3) days)

---

### Review required within twenty-four (24) Hours of placement

- I was not involved in the initial placement and have reviewed the reasons for the placement. I find the placement appropriate.
- I find the inmate should be moved to \_\_\_\_\_ rather than remain in

restrictive housing.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**Note: If the inmate's placement in restrictive housing is approved, he/she shall appear before the Classification Committee for possible assignment within seven (7) days. Every twenty-four hour period in which a youthful inmate remains in restrictive housing the Warden or designee must provide a written authorization the specific reasons for housing the youthful inmate in the restrictive housing area.**

## RESTRICTIVE RECREATION PLACEMENT

Any placement requires a finding that this inmate's continued actions pose a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility. These actions include but are not limited to: tampering with or blocking any lock or locking device; tampering or manipulating any recreation enclosure or Restricted Housing recreation area; running from, avoiding or otherwise resisting apprehension; aggravated battery to include attempted battery/battery on staff or inmate(s); and attempts to remove or manipulate restraints.

TO: \_\_\_\_\_

FROM: \_\_\_\_\_

DATE: \_\_\_\_\_

INMATE NAME: \_\_\_\_\_ ADC# \_\_\_\_\_ is/was placed on restrictive recreation on \_\_\_\_\_ at \_\_\_\_\_ for the following reason(s):

- Tampering with, or blocking, any lock or locking device
- Tampering or manipulating any recreation enclosure
- Running from, avoiding or otherwise resisting apprehension
- Aggravated battery to include attempted battery on staff or inmate(s)
- Attempts to remove and/or manipulate restraints
- Other: \_\_\_\_\_

### Review required within twenty-four (24) hours of placement

I have reviewed the reasons for the placement and find that the inmate should should not remain on restrictive recreation status.

\_\_\_\_\_  
Warden Signature

\_\_\_\_\_  
Date

I have reviewed the reasons for the placement and find that the inmate should should not remain on restrictive recreation status.

\_\_\_\_\_  
Deputy/Duty Director

\_\_\_\_\_  
Date

Note: If the inmate's placement on restrictive recreation status is approved, he/she shall appear before the next Classification Committee for review and every sixty (60) days thereafter.

**RESTRICTIVE HOUSING STATUS REVIEW  
RECORD OF RELEASE CONSIDERATION**

Facility
Inmate's Name
ADC#

07 Day Review	<input type="checkbox"/>	Warden's Review	<input type="checkbox"/>
30 Day Review	<input type="checkbox"/>	Director's Review	<input type="checkbox"/>
60 Day Review	<input type="checkbox"/>	Special Consideration	<input type="checkbox"/>

Date of Review \_\_\_\_\_

Date of Initial Assignment \_\_\_\_\_

**REASON FOR INITIAL ASSIGNMENT**

- Poses a direct threat to the safety of themselves or others
- Poses a direct threat to the safe and secure operations of the facility
- Administrative Status due to: \_\_\_\_\_

**COMMITTEE MEMBERS**

**VOTE**

_____	REMAIN ( )	RELEASE ( )
_____	REMAIN ( )	RELEASE ( )
_____	REMAIN ( )	RELEASE ( )
_____	REMAIN ( )	RELEASE ( )
_____	REMAIN ( )	RELEASE ( )
_____	REMAIN ( )	RELEASE ( )
_____	REMAIN ( )	RELEASE ( )
_____	REMAIN ( )	RELEASE ( )

**INMATE'S STATEMENT CONCERNING RELEASE OR CONTINUED SEGREGATION**

**ACTION/REASON**

- Continue Restrictive Housing (Describe how the inmate continues to pose a direct threat to safety of persons or a clear threat to the safe and secure operations of the facility):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Inmate is not a threat to the security of persons or a clear threat to the safe and secure operations of the facility, and should be released from Restrictive Housing
- Release pending completion of Restrictive Housing Restrictive Release Plan

**MENTAL HEALTH APPRAISAL REPORT: Completed**  Yes  No

**WARDEN'S REVIEW**

- I have reviewed the above and agree with the Committee's decision.
- I have reviewed the above and am referring this back to the Committee.

\_\_\_\_\_  
WARDEN OR DESIGNEE SIGNATURE

\_\_\_\_\_  
DATE

## RESTRICTIVE HOUSING RELEASE PLAN

Facility Name: \_\_\_\_\_ Date: \_\_\_\_\_

Inmate Name: \_\_\_\_\_ ADC Number: \_\_\_\_\_

- Upon completion of the following steps, the above-referenced inmate may be returned to general population from a restrictive housing assignment:
- Upon completion of the following steps, the above-referenced inmate may be removed from a restrictive recreation placement.
  - Achieve Class II status or better
  - Complete the sanction(s) imposed by the Disciplinary Court
  - Complete a Step-down Program
  - Complete a/an \_\_\_\_\_ program
  - Other (must be specific):

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\_\_\_\_\_  
Classification Committee Member  
Signature

\_\_\_\_\_  
Date

### INMATE ACKNOWLEDGEMENT

I have read, or have had read to me, this release plan. I understand that I may remain in restrictive housing or on restrictive recreation until this plan is completed.

\_\_\_\_\_  
Inmate's Signature

\_\_\_\_\_  
Date

### WARDEN'S REVIEW

- I have reviewed the above and agree with the proposed release plan.
- I have reviewed the above and am referring this proposed release plan back to the Classification Committee.

\_\_\_\_\_  
Warden or Designee's Signature

\_\_\_\_\_  
Date

## RESTRICTIVE HOUSING CLASSIFICATION COMMITTEE WAIVER

DATE OF REVIEW: \_\_\_\_\_

I, Inmate \_\_\_\_\_, ADC# \_\_\_\_\_  
Hereby waive or refuse to appear before the Restrictive Housing Classification  
Committee (RHCC).

My waiver or refusal to appear before the RHCC is done freely and voluntarily without  
threat or coercion from any person(s). I understand that my refusal to appear before the  
RHCC will result in the review of my Restrictive Housing or Restrictive Recreation  
Status in my absence and a decision without any comments or statements from me.

Inmate Name (Please print): \_\_\_\_\_

Inmate Signature: \_\_\_\_\_

Date: \_\_\_\_\_

RHCC Member Name (Please print): \_\_\_\_\_

RHCC Member Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness Name (Please print): \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Date: \_\_\_\_\_



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Pine Bluff, AR 71611-8707  
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Fax: 870-267-6244  
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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Restrictive Housing

**NUMBER:** 19-28

**SUPERSEDES:** AD 17-31

**APPLICABILITY:** Director, Deputy/Assistant Directors,  
Warden/Center Supervisors, Employees  
involved in Segregation, and Inmates

**REFERENCE:** AR-836 Segregation;

**PAGE:** 1 of 15

AD 2014-08 Disciplinary Court Review;  
AD 2016-20 Punitive Segregation-Restriction;  
and AD 2017-03 Step-Down Program

**APPROVED:** Original Signed by Dexter Payne

**EFFECTIVE DATE:** 9/5/2019

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### I. POLICY:

It is the policy of the Division of Correction (ADC) to provide secure, safe housing to inmates who require a higher degree of physical control or who staff otherwise find necessary to remove from the general population of the facility. The policy is to limit the use of Restrictive Housing to the shortest period of time possible when it is used while maintaining a safe environment within the institutions.

Note: The use of “segregation” or administrative segregation” in existing policies also applies to inmates in “Restrictive Housing” or “Extended Restrictive Housing” unless this poses a conflict with this policy.

### II. EXPLANATION:

The Institutional Classification Committee or, in an emergency, the Warden/Center Supervisor or designee may place an inmate in Restrictive Housing (RH) if his/her continued presence in the general population poses a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility.



### III. DEFINITIONS:

1. **Administrative Status** – Separation from the general population by the classification committee or other authorized authority when the continued presence of the inmate in the general population poses a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility. Inmates pending investigation by the unit or law enforcement, pending trial on a criminal act, pending disciplinary court review, or pending transfer also can be included. While this status may be in restrictive housing, it is a temporary status and a release plan is not required while in this status.
2. **Restrictive Housing (RH)** – A placement that requires an inmate to be confined to a cell at least twenty-two (22) hours per day.
3. **Extended Restrictive Housing** – Placement in housing that separates the inmate from contact with general population while restricting an inmate to his/her cell for twenty-two (22) hours per day and for thirty (30) days or longer for the safe and secure operation of the facility. A 48-hour relief does not end Extended Restrictive Housing because the inmate is not returned to general population during this time.
4. **Restrictive Recreation** – An status assignment allowing the Classification Committee or Warden to assign an inmate to be kept in full restraints during the inmate's scheduled recreation period if his/her actions pose a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility. These actions include but are not limited to: tampering with, or blocking, any lock or locking device; tampering or manipulating any recreation enclosure or Restricted Housing recreation area; running from, avoiding or otherwise resisting apprehension; aggravated battery to include attempted battery or battery on staff or inmates; and attempts to remove or manipulate restraints.
5. **Serious Mental Illness** – Psychotic, Bipolar, and Major Depressive Disorders and any other diagnosed mental disorder (excluding substance use disorders) associated with serious behavioral impairment as evidenced by examples of acute decompensation, self-injurious behaviors, and mental health emergencies that require an individualized treatment plan by a qualified mental health professional.
6. **Step-Down Program** – A system of review that establishes criteria to prepare an inmate for transition from restrictive housing to general population or the community. A classification committee made up of a multidisciplinary team (medical, mental health, security, and others determined by the Warden) will determine which individual inmates enter the program.
7. **Protective Custody** – Form of separation from the general population for inmates requesting or requiring protection from other inmates for reasons of health or safety. The classification committee reviews the inmate's status periodically. Inmates assigned to protective custody are not assigned to restrictive housing due to this status alone. Inmates placed in restrictive housing must be transferred out of restrictive housing within three (3) business days when placement is due to protective custody status absent approval by the appropriate Deputy Director.

8. **Disciplinary Court Review (DCR)** – The confinement of an inmate in restrictive housing until a disciplinary hearing is completed due to an alleged disciplinary infraction.
9. **Placement** – Removal of an inmate from general population to a restrictive housing assignment. (twenty-four (24) hour review required)
10. **Assignment** – A decision by the Institutional Classification Committee that restrictive housing is appropriate.
11. **Release Plan** – The steps the inmate needs to take to be released to general population which may include one or more of the following as examples: a certain number of disciplinary free days, completion of disciplinary sanctions, completion of anger management, thinking errors, and/or a step-down program.
12. **Reentry Plan** – A pre-release assessment and plan that includes at a minimum a review of parole stipulations and program referrals, transportation to the inmate’s closest commercial pick-up point, information on community services available in the area, and information on how to reinstate voting rights upon discharge of their sentence.
13. **Youthful Inmate** - Any inmate under the age of 18.

#### IV. **PROCEDURES:**

##### A. Initial Placement:

1. Upon the determination that the inmate poses a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility, the Chief Security Officer on duty (shift supervisor) may place the inmate in Restrictive Housing.
2. Any inmate placement in restrictive housing will be approved, denied, or modified within twenty-four (24) hours by an appropriate and higher authority who was not involved in the initial placement. The higher authority shall, after reviewing the inmate’s status, either release him/her from the Restrictive Housing area or retain him/her in the Restrictive Housing area and refer the inmate to the next regularly scheduled meeting of the Classification Committee.
3. The Classification Committee will hold the hearing to determine assignment within seven (7) days of placement and after the inmate has received written notice, along with other provisions listed above.
4. A youthful inmate will not be placed in restrictive housing as a disciplinary measure for more than twenty-four (24) hours unless:
  - a. The inmate has committed a physical or sexual assault;

- b. The conduct of the inmate poses a direct threat to the safety of a person or clear threat to the safe and secure operation of the unit; or
- c. The inmate escaped or attempted to escape from the unit.

**Note:** Refer to the Youthful Inmate Administrative Directive for procedures pertaining to the housing of youthful inmates.

B. Institutional Classification Committee Procedures for assignment to Restrictive Housing:

1. The inmate will be given a meaningful hearing before the Classification Committee within seven (7) days of placement in restrictive housing.
2. The inmate will receive written notification of the hearing not less than twenty-four (24) hours prior to the hearing.
3. The inmate will be allowed to appear before the committee, to make any relevant statement, and to present related documentary evidence.
4. Assignment to restrictive housing will be made by a majority vote of the committee.
5. The inmate will be advised of the reasons for his/her assignment to restrictive housing and the steps he/she needs to take to be released to general population which may include a step-down program. Both the reason for assignment and the method to earn release will be provided to the inmate in writing and a copy of the reasons will be maintained in the inmate's electronic file. All decisions may be subject to review and approval or disapproval by the Warden or his/her designee.
6. Any inmate who is potentially dangerous to himself/herself shall immediately be placed in Restrictive Housing and evaluated by Mental Health Staff the same business day or within four (4) hours.
7. Any inmate who exhibits chronic unruly behavior shall be evaluated by the Mental Health Staff upon request by the Warden or his/her designee. The results of the evaluation shall be considered by the Classification Committee in determining the Restrictive Housing status of the inmate.
8. Confinement of the following inmates in Extended Restrictive Housing is prohibited:
  - a. Inmates under the age of eighteen (18) years of age;
  - b. Pregnant inmates; and
  - c. Inmates who are Seriously Mentally Ill (SMI)

9. An inmate will not be placed in Restrictive Housing based on Gender Identity alone.

C. Administrative Status:

1. An inmate that poses a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility, can be placed in restrictive housing on administrative status due to one of the following:
  - a. Pending trial on a criminal act, placement is not to exceed three (3) business days following a court decision.
  - b. Pending disciplinary court review, placement is not to exceed fourteen (14) days. If the disciplinary action is dismissed prior to a disciplinary hearing, the inmate must be released from DCR status and appropriately reassigned.
  - c. Pending transfer to another unit, placement is not to exceed three (3) business days absent approval from the appropriate Deputy Director.
  - d. Pending investigation by unit staff, Internal Affairs, or Arkansas State Police not to exceed three (3) business days which may be extended by the Warden or designee. The extension approved by the Warden or Deputy/Assistant Warden may not exceed five (5) working days per extension. If there are more than four extensions, they must have the approval of the Director. Extensions can only be made for one of the following reasons:
    - i. An inmate who is suspected of having information which would aid in the resolution of the investigation is unavailable for interview by appropriate authorities.
    - ii. Awaiting information, documents and/or decisions which would aid in the resolution of the investigation, from appropriate authorities.
    - iii. The case requires more extensive investigation.
2. For inmates on Administrative Status, these procedures will be followed except that this status is temporary and a release plan is not necessary while in this status.

D. Controls and Privileges while in Restrictive Housing:

1. Housing in a separate area of the institution determined by the Warden.
2. Work duties, if assigned, within the limits of the inmate's medical classification/restrictions.

3. Regularly scheduled meals - may be served in cells.
4. Television, radio, MP4, and/or tablet privileges may be denied only upon documentation of the reason(s) in each inmate's record. (Note: Separate documentation is not required when class status required for the privilege does not exist, or a disciplinary restriction is in the inmate's record.
5. Institutional activities as approved by the Warden.
6. Regular mail privileges.
7. Chaplains will visit the restrictive housing area at least weekly and upon request.
8. Visits may be in a separate visiting room and will be conducted in the presence of an officer.
9. Although no razors will be allowed, inmates will have the opportunity to groom facial hair and shower a minimum of three times per week. Barbering and hair care services should be available on the same basis as general population except that no razors will be allowed. Exceptions to the schedule are permitted when found necessary by the senior officer on duty. All exceptions will be recorded in the log and justified in writing.
10. Referrals to medical, dental or mental health services are the same as general population; the referrals can be through sick call/health services request or by staff for medical emergencies. Inmates in Restrictive Housing are provided medication as prescribed.
11. Opportunity for exercise, a minimum of one (1) hour of exercise per day five (5) days per week, unless security or safety dictates otherwise. Opportunities to exercise outdoors, weather permitting. Reasons for the imposition of any constraints should be documented in the log and justified in writing. Inmates who have out-of-cell work assignments are not required to receive the one-hour exercise period.
12. Commissary purchases will be limited to \$10 weekly due to security requirements on inmates in restrictive housing. Items not allowed include ice cream, razors, sharp objects, canned items, and others as designated in writing by unit policies.
13. Appropriate clothing is to be issued. Jumpsuits may replace pants/tops due to strings or belts necessary for pants and other security concerns.
14. A reasonable amount of reading material and educational material approved by the Educational Department.
15. Bedding is to be changed weekly and weekly laundry services are to be provided.

16. Access to legal materials upon request and in accordance with unit policy.
  17. Access to attorney of record via legal mail and telephone.
  18. Inmates leaving or entering the restrictive housing unit must be thoroughly searched. Those on restrictive housing status shall be escorted by two officers and under normal circumstances will be in restraints to and from their destination.
  19. This list of controls and privileges does not govern inmates serving punitive restriction, participating or assigned to Step-Down Units, death row, and other special housing areas including Residential Programming Unit (RPU), VSM Program, infirmaries, and the hospital.
  20. Restrictive Housing inmates are personally observed by a correctional officer twice per hour, but no more than forty (40) minutes apart, on an irregular schedule. Inmates who are mentally disordered or who demonstrate unusual, bizarre, or self-injurious behavior receive more frequent observation as determined by a qualified mental health professional (minimal to constant); suicidal inmates are under continuous observation (directly or by monitored camera) while on treatment precautions. Observation shall be documented in a log.
- E. Review of Restrictive Housing Status:
1. The Classification Committee or authorized staff must review the status of every inmate assigned to restrictive housing classification every seven (7) days for the first sixty (60) days, and every thirty (30) days thereafter to determine if the reason(s) for assignment continues to exist. At every other (thirty) 30-day review, the inmate will be personally interviewed by the Classification Committee or authorized staff. All reviews will be documented utilizing the appropriate segregation form, and all refusals by inmates will be signed by the inmate and at least one member of the classification committee who confirmed the refusal by speaking with the inmate. Any inmate who advises the classification member that he/she did not refuse will be assigned to the next regularly scheduled classification meeting.
  2. A mental health practitioner/provider completes a mental health appraisal and prepares a written report on all inmates placed in restrictive housing within seven (7) days of placement. If confinement continues beyond thirty (30) days, a behavioral health assessment by a mental health practitioner/provider is completed at least every thirty (30) days for inmates with a diagnosed behavioral health disorder and more frequently if clinically indicated. For inmates without a diagnosed behavioral health disorder, an assessment is completed every ninety (90) days and more frequently if clinically indicated. The evaluation will be conducted in a confidential area.

3. The Unit Warden or designee will review all committee recommendations for possible transfer to general population within five (5) days.
4. No inmate shall remain in a Restrictive housing for more than one year unless the Warden has personally interviewed him/her at the end of the year and approves the assignment. At the end of the second and each additional year that an inmate remains in a Restrictive housing, the Warden and the Deputy Director shall personally interview the inmate and determine whether the assignment is necessary and appropriate.
5. The calculation and scheduling of an inmate's Restrictive Housing hearing will not change if that inmate transfers to another unit and remains in restrictive housing.
6. Inmates assigned to Restrictive housing have the opportunity to participate in the Step-Down Program to assist with reintegration of the inmate into general population in accordance with his/her release plan or to the community in accordance with his/her Reentry plan.
7. The Division of Correction will attempt to ensure that inmates are not released directly into the community from Restrictive or Extended Restrictive Housing. In the event that the release of an inmate directly from Restrictive Housing into the community is imminent, the Unit Warden or designee will document the justification and receive approval from the appropriate Deputy Director. Additionally:
  - Classification will have verified that a Reentry Plan is in the Department's electronic offender management information system (eOMIS) at least one-hundred twenty (120) days prior to release. The Reentry Plan will be tailored to specific needs of the inmate. This does not apply to court orders for immediate release.
  - Notification of release to local law enforcement where the inmate intends to reside, and/or local law enforcement where the Department releases the inmate from custody.
  - Notify releasing inmate of applicable community resources as part of the Reentry Plan.
  - Victim Information and Notification Everyday (VINE) is made to those victims who have current information in VINE or eOMIS.
8. a. For any youthful inmate housed in punitive housing or restrictive housing, the Warden or designee will provide a written authorization stating the specific reasons for housing the youthful inmate outside of the general population youthful

inmate housing area. The statement shall include a release plan specifying what behaviors need to be modified and under what conditions the youthful inmate may be returned to the general population youthful inmate housing area.

- b. The Warden or designee will provide the written authorization for every twenty-four (24) hour period during which the youthful inmate remains in punitive housing or restrictive housing after the initial twenty-four (24) hour placement.

F. Restrictive Recreation:

A. Initial Placement:

1. Upon determination that the inmate poses a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility, the shift supervisor will notify the Warden, Deputy Warden, or Chief of Security to recommend an inmate's placement on Restrictive Recreation Status. The recommendation shall include all pertinent information regarding the request and be forwarded to the Warden for review and approval, unless the Warden approved the initial placement.
2. Once the Warden initially approves the use of Restrictive Recreation for an inmate, the Warden will contact the appropriate Deputy Director or the Duty Director, requesting final authorization. The request for authorization will be made within twenty-four (24) hours of the initial placement of an inmate on Restrictive Recreation Status and documented.
3. Any inmate placed on Restrictive Recreation Status will be scheduled to appear before the next regularly scheduled meeting of the unit's Classification Committee for review.

B. Institutional Classification Committee Procedures for Continued Placement on Restrictive Recreation Status

1. The inmate will be allowed to appear before the Classification Committee to make any relevant statements, and to present related documentary evidence. An inmate's refusal to appear before the committee will be documented in writing.
2. Continued placement will be made by majority vote of the committee.
3. The inmate will be advised in writing of the reasons for continued placement and the steps the inmate must take to be removed from Restrictive Recreation Status.



4. The inmate will be on staff restricted movement of a Lieutenant or above for the duration of the placement.

Note: The Lieutenant or above restriction will begin with the initial placement.

5. The Restrictive Recreation Status will be documented in the Case Notes Section of the inmate's electronic record and a Restrictive Recreation Precaution will also be entered. A handout on in-cell exercise shall be provided to the inmate upon request.
6. All decisions of the Classification Committee will be subject to review and approval or disapproval by the Warden or his/her designee.

C. Review of Restricted Recreation Status.

1. The Classification Committee or authorized staff, at the rank of Major or above, must review the status of each inmate placed on Restrictive Recreation every sixty (60) days following the initial Classification Committee Review. The status review will be documented in the Classification Committee Action Section of the inmate's electronic record.
2. The Warden or his/her designee will review all recommendations for possible release from restrictive recreation status.

Note: Upon release from restrictive housing an inmate will automatically be released from restrictive recreation status.

## RESTRICTIVE HOUSING PLACEMENT

Any placement requires a finding that this inmate’s continued presence in the general population poses a serious threat to life, property, self, staff, other inmates, or to the security of the Unit

TO: \_\_\_\_\_

FROM: \_\_\_\_\_

DATE: \_\_\_\_\_

SUBJECT: \_\_\_\_\_ A.D.C. \_\_\_\_\_ is/was placed in restrictive housing on

\_\_\_\_\_ at \_\_\_\_\_ for the following reason(s):

- Administrative Status (Temporary):**
  - pending trial for a criminal act
  - pending disciplinary court review
  - pending transfer to another unit
  - pending investigation (Note: PREA victims cannot be placed in restrictive housing for more than three (3) days)

### Review required within twenty-four (24) Hours of placement

- I was not involved in the initial placement and have reviewed the reasons for the placement. I find the placement appropriate.
- I find the inmate should be moved to \_\_\_\_\_ rather than remain in restrictive housing.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**Note: If the inmate’s placement in restrictive housing is approved, he/she shall appear before the Classification Committee for possible assignment within seven (7) days. Every twenty-four hour period in which a youthful inmate remains in restrictive housing the Warden or designee must provide a written authorization the specific reasons for housing the youthful inmate in the restrictive housing area.**

## RESTRICTIVE RECREATION PLACEMENT

**Any placement requires a finding that this inmate’s continued actions pose a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility. These actions include but are not limited to: tampering with or blocking any lock or locking device; tampering or manipulating any recreation enclosure or Restricted Housing recreation area; running from, avoiding or otherwise resisting apprehension; aggravated battery to include attempted battery/battery on staff or inmate(s); and attempts to remove or manipulate restraints.**

TO: \_\_\_\_\_

FROM: \_\_\_\_\_

DATE: \_\_\_\_\_

INMATE NAME: \_\_\_\_\_ ADC# \_\_\_\_\_ is/was placed on restrictive recreation on \_\_\_\_\_ at \_\_\_\_\_ for the following reason(s):

- Tampering with, or blocking, any lock or locking device
- Tampering or manipulating any recreation enclosure
- Running from, avoiding or otherwise resisting apprehension
- Aggravated battery to include attempted battery on staff or inmate(s)
- Attempts to remove and/or manipulate restraints
- Other: \_\_\_\_\_

### Review required within twenty-four (24) hours of placement

I have reviewed the reasons for the placement and find that the inmate should should not remain on restrictive recreation status.

\_\_\_\_\_  
Warden Signature

\_\_\_\_\_  
Date

I have reviewed the reasons for the placement and find that the inmate should should not remain on restrictive recreation status.

\_\_\_\_\_  
Deputy/Duty Director

\_\_\_\_\_  
Date

Note: If the inmate’s placement on restrictive recreation status is approved, he/she shall appear before the next Classification Committee for review and every sixty (60) days thereafter.

**RESTRICTIVE HOUSING STATUS REVIEW  
RECORD OF RELEASE CONSIDERATION**

Facility
Inmate's Name
ADC#

07 Day Review	<input type="checkbox"/>	Warden's Review	<input type="checkbox"/>
30 Day Review	<input type="checkbox"/>	Director's Review	<input type="checkbox"/>
60 Day Review	<input type="checkbox"/>	Special Consideration	<input type="checkbox"/>

Date of Review \_\_\_\_\_

Date of Initial Assignment \_\_\_\_\_

**REASON FOR INITIAL ASSIGNMENT**

- Poses a direct threat to the safety of themselves or others
- Poses a direct threat to the safe and secure operations of the facility
- Administrative Status due to: \_\_\_\_\_

**COMMITTEE MEMBERS**

**VOTE**

_____	REMAIN ( )	RELEASE ( )
_____	REMAIN ( )	RELEASE ( )
_____	REMAIN ( )	RELEASE ( )
_____	REMAIN ( )	RELEASE ( )
_____	REMAIN ( )	RELEASE ( )
_____	REMAIN ( )	RELEASE ( )
_____	REMAIN ( )	RELEASE ( )
_____	REMAIN ( )	RELEASE ( )

**INMATE'S STATEMENT CONCERNING RELEASE OR CONTINUED SEGREGATION**

**ACTION/REASON**

- |   |  |
|---|--|
| <input type="checkbox"/> Continue Restrictive Housing (Describe how the inmate continues to pose a direct threat to safety of persons or a clear threat to the safe and secure operations of the facility):<br>_____<br>_____<br>_____<br>_____ | <input type="checkbox"/> Inmate is not a threat to the security of persons or a clear threat to the safe and secure operations of the facility, and should be released from Restrictive Housing<br><br><input type="checkbox"/> Release pending completion of Restrictive Housing Restrictive Release Plan |
|---|--|

**MENTAL HEALTH APPRAISAL REPORT: Completed**  Yes  No

**WARDEN'S REVIEW**

- I have reviewed the above and agree with the Committee's decision.
- I have reviewed the above and am referring this back to the Committee.

\_\_\_\_\_  
WARDEN OR DESIGNEE SIGNATURE

\_\_\_\_\_  
DATE

## RESTRICTIVE HOUSING RELEASE PLAN

Facility Name: \_\_\_\_\_ Date: \_\_\_\_\_

Inmate Name: \_\_\_\_\_ ADC Number: \_\_\_\_\_

- Upon completion of the following steps, the above-referenced inmate may be returned to general population from a restrictive housing assignment:
- Upon completion of the following steps, the above-referenced inmate may be removed from a restrictive recreation placement.
  - Achieve Class II status or better
  - Complete the sanction(s) imposed by the Disciplinary Court
  - Complete a Step-down Program
  - Complete a/an \_\_\_\_\_ program
  - Other (must be specific):

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\_\_\_\_\_  
Classification Committee Member  
Signature

\_\_\_\_\_  
Date

### INMATE ACKNOWLEDGEMENT

I have read, or have had read to me, this release plan. I understand that I may remain in restrictive housing or on restrictive recreation until this plan is completed.

\_\_\_\_\_  
Inmate's Signature

\_\_\_\_\_  
Date

### WARDEN'S REVIEW

- I have reviewed the above and agree with the proposed release plan.
- I have reviewed the above and am referring this proposed release plan back to the Classification Committee.

\_\_\_\_\_  
Warden or Designee's Signature

\_\_\_\_\_  
Date

## RESTRICTIVE HOUSING CLASSIFICATION COMMITTEE WAIVER

DATE OF REVIEW: \_\_\_\_\_

I, Inmate \_\_\_\_\_, ADC# \_\_\_\_\_  
Hereby waive or refuse to appear before the Restrictive Housing Classification  
Committee (RHCC).

My waiver or refusal to appear before the RHCC is done freely and voluntarily without  
threat or coercion from any person(s). I understand that my refusal to appear before the  
RHCC will result in the review of my Restrictive Housing or Restrictive Recreation  
Status in my absence and a decision without any comments or statements from me.

Inmate Name (Please print): \_\_\_\_\_

Inmate Signature: \_\_\_\_\_

Date: \_\_\_\_\_

RHCC Member Name (Please print): \_\_\_\_\_

RHCC Member Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness Name (Please print): \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Date: \_\_\_\_\_



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Movement and Restraint of Pregnant Women

**NUMBER:** ~~13-6019-~~

**SUPERSEDES:** ~~04-0813-60~~

**APPLICABILITY:** Transportation Officers and  
all facilities housing female inmates.

**REFERENCE:** ~~JAR 829~~  
Arkansas Code Ann. §§ 12-32-101, 102, and 103 PAGE 1 of 34  
Adult Correctional Institutions ACA Standards

**APPROVED:** Original signed by ~~Ray Hobbs~~ \_\_\_\_\_ **EFFECTIVE**  
**DATE:** ~~11/22/2013~~

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### **I. POLICY:**

To ensure that the movement of pregnant women outside of a correctional facility is done in a humane manner safeguarding the health of the woman and the fetus without compromising the ~~Arkansas Department~~Division of Correction's responsibility to public safety.

### **II. EXPLANATIONPURPOSE**

Women in labor often experience sudden pain during contractions, need to support their abdomens during movement, and are easily thrown off-balance due to the pronounced shift in weight. Therefore, it is important that they be able to shift their posture to ease pain and work with the contraction. -They also need to support their abdomens to cushion bumps in transportation and facilitate changes in posture and position. -They need their legs and hands free when standing to maintain balance and to catch themselves without falling on their abdomens whenever they are required to walk.

### **III. DEFINITIONS:**

- A. “Labor” means the period of time before a birth during which regular contractions of the uterus result in dilation and effacement of the cervix;
- B. “Post-partum” means, as determined by the physician of the inmate, the thirty-day period following delivery of a child;
- C. “Other health professional” means a person who perform clinical duties, such as health care practitioners, nurses, licensed professional counselors, social workers, and emergency medical technicians in accordance with each health care professional’s scope of training –and applicable –licensing, registration, certification, and regulatory requirements; and
- D. “Restraints” means a physical restraint or mechanical device used to control the movement of an inmate’s body or limbs.

**IV. PROCEDURE**

- A. Pregnant women will be reviewed by the Classification Committee for ~~trustworthy~~ (Class I-B) trustworthy status upon completion of their initial assignments. ~~Class I-B status need not be granted at that time if doubts remain about their trustworthiness.~~
- B. All of the usual requirements for Class I-B status must be met, except for the availability of a I-B (outside the fence) job assignment. ~~Medical staff should be consulted for restrictions on activities.~~
- C. Any inmate who is granted I-B status will be allowed movement outside the facility without restraints. ~~The supervision of the inmate by a Correctional Officer is still required. The officer will be expected to have the security equipment usually carried when supervising inmates.~~
- D. The inmate will be medically unassigned for a thirty-day period following delivery. The inmate will return to classification after the ~~medical staff~~provider has determined that she is fit to be assigned to a job.

- E. ~~All inmates with classifications lower than I-B~~Transporting pregnant inmates and restraint of pregnant inmates will be ~~transported~~ as follows:

- 1. Upon determination by medical staff that the inmate is in active labor, the obstetrician will be contacted, per protocol or prior agreement, and the inmate will be transported immediately to the hospital unless the obstetrician instructs otherwise.

**Commented [r1]:** Everything under E. is about pregnant inmates

- 2. To the extent possible, the inmate will be moved by wheelchair from the facility to the transport vehicle and from the transport vehicle to the clinic or hospital.

**Commented [r2]:** Do we need this here?

**Commented [r3]:** Is this for pregnant or pregnant and in labor inmates?



3. ~~Under no conditions will any type of restraint circling the abdomen be used~~
4. ADC shall not place an inmate verified to be pregnant, in labor, or in post-partum recovery (thirty-day period following delivery) in restraints unless:
  - a. The inmate presents a substantial flight risk; or
  - b. A medical or security circumstance dictates that the inmate be restrained to ensure the safety and security of:
    - i. The inmate, or child;
    - ii. The staff;
    - iii. Other inmates; or
    - iv. The public.
5. If restraints are required, the physician, nurse, or other health professional providing inmate obstetric care shall have final decision-making authority on the use of restraints and may request that the inmate not be restrained.
6. ~~Where~~ If restraints are used on a pregnant inmate under section IV.E.4: needed,
  - a. ~~Only soft restraints will~~ may ~~be used, unless the inmate seems likely to harm herself or others or has an escape history, in such cases, the Warden or Duty Warden will have discretion to order hard restraints.~~
  - ~~a.b.~~ Leg or waist (circling the abdomen) restraints shall not be used on any inmate who is in labor.
  - ~~b.c.~~ Leg restraints will ~~shall~~ not ~~be used at any point in movement in which the inmate may be required to walk on a pregnant inmate who is not in a wheelchair, bed, or gurney.~~
  - d. Soft H ~~and~~ hand restraints will ~~may~~ be used if the inmate is not actively experiencing contractions (e.g. travel for a clinic visit to the obstetrician). ~~The restraints shall always be forward-facing, designed to restrain the person's hands in front of the person to protect the person and others.~~
  - e. ~~Hand restraints may be used when returning the inmate to the facility from the hospital.~~
  - e. When the inmate is on a bed or gurney, one hand or one leg should ~~may~~ be restrained to the bed or gurney, unless removal of the restraint is

**Commented [r4]:** Is this for pregnant or pregnant and in labor inmates?

**Commented [r5]:** Changed pregnant to labor

**Commented [r6]:** Covered in d. above.

requested by medical staff. -The inmate should be given the choice of hand or leg restraints unless good security practice dictates otherwise.

~~6.7.~~ All restraints will be removed when the inmate is in the labor and delivery room or when anesthesia is initiated. -At that point, medical restraints may be ordered by the attending physician should they be seen as medically indicated.

~~7.8.~~ The supervising officer will not leave the presence of an unrestrained inmate except during delivery or if requested to do so by medical staff during the performance of other medical procedures. -At such times, the officer will remain in the immediate vicinity, accessible to hospital staff as needed.

~~8.~~ ~~Hand restraints may be used when returning the inmate to the facility from the hospital.~~

Commented [r7]: Covered in 6.d

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F. Correctional Officers are expected to use good judgment at all times. Circumstances not anticipated in this Administrative Directive may require adjustments in the procedures above. -Should deviation from this policy be required, the Correctional Officer must contact the Warden or Duty Warden as soon as the situation necessitating the adjustment has been adequately addressed. The Warden, or Duty Warden will notify the Administrator of Medical Services who will review the action to determine whether better alternatives or policy changes are needed.

~~G. The facility shall make written findings within ten (10) days regarding the extraordinary medical or security circumstance that dictated the inmate to be restrained. -The written findings shall be maintained for at least five (5) years.~~

~~H. If restraints are used during labor, ADC shall report the use of restraints during labor to the Board of Corrections and to the Attorney General.~~



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Movement and Restraint of Pregnant Women

**NUMBER:** 19-29

**SUPERSEDES:**13-60

**APPLICABILITY:** Transportation Officers and  
all facilities housing female inmates.

**REFERENCE:** AR 829  
Arkansas Code Ann. §§ 12-32-101, 102, and 103  
Adult Correctional Institutions ACA Standards

**PAGE 1 of 4**

**APPROVED:** Original signed by Dexter Payne

**EFFECTIVE DATE:** 9/9/2019

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### **I. POLICY:**

To ensure that the movement of pregnant women outside of a correctional facility is done in a humane manner safeguarding the health of the woman and the fetus without compromising the Division of Correction's responsibility to public safety.

### **II. PURPOSE**

Women in labor often experience sudden pain during contractions, need to support their abdomens during movement, and are easily thrown off-balance due to the pronounced shift in weight. Therefore, it is important that they be able to shift their posture to ease pain and work with the contraction. They also need to support their abdomens to cushion bumps in transportation and facilitate changes in posture and position. They need their legs and hands free when standing to maintain balance and to catch themselves without falling on their abdomens whenever they are required to walk.

### **III. DEFINITIONS:**

A. "Labor" means the period of time before a birth during which regular contractions of the uterus result in dilation and effacement of the cervix;

- B. “Post-partum” means, as determined by the physician of the inmate, the thirty-day period following delivery of a child;
- C. “Other health professional” means a person who perform clinical duties, such as health care practitioners, nurses, licensed professional counselors, social workers, and emergency medical technicians in accordance with each health care professional’s scope of training and applicable licensing, registration, certification, and regulatory requirements; and
- D. “Restraints” means a physical restraint or mechanical device used to control the movement of an inmate's body or limbs.

#### IV. PROCEDURE

- A. Pregnant women will be reviewed by the Classification Committee for Class I-B trusty status upon completion of their initial assignments. Class I-B status need not be granted at that time if doubts remain about their trustworthiness.
- B. All of the usual requirements for Class I-B status must be met, except for the availability of a I-B (outside the fence) job assignment. Medical staff should be consulted for restrictions on activities.
- C. Any inmate who is granted I-B status will be allowed movement outside the facility without restraints. The supervision of the inmate by a Correctional Officer is still required. The officer will be expected to have the security equipment usually carried when supervising inmates.
- D. The inmate will be medically unassigned for a thirty-day period following delivery. The inmate will return to classification after the provider has determined that she is fit to be assigned to a job.
- E. Transporting pregnant inmates and restraint of pregnant inmates will be as follows:
  - 1. Upon determination by medical staff that the inmate is in active labor, the obstetrician will be contacted, per protocol or prior agreement, and the inmate will be transported immediately to the hospital unless the obstetrician instructs otherwise.
  - 2. To the extent possible, the inmate will be moved by wheelchair from the facility to the transport vehicle and from the transport vehicle to the clinic or hospital.
  - 3. Under no conditions will any type of restraint circling the abdomen be used.

4. ADC shall not place an inmate verified to be pregnant, in labor, or in post-partum recovery (thirty-day period following delivery) in restraints unless:
  - a. The inmate presents a substantial flight risk; or
  - b. A medical or security circumstance dictates that the inmate be restrained to ensure the safety and security of:
    - i. The inmate, or child;
    - ii. The staff;
    - iii. Other inmates; or
    - iv. The public.
5. If restraints are required, the physician, nurse, or other health professional providing inmate obstetric care shall have final decision-making authority on the use of restraints and may request that the inmate not be restrained.
6. If restraints are used on a pregnant inmate under section IV.E.4:
  - a. Only soft restraints may be used.
  - b. Leg or waist (circling the abdomen) restraints shall not be used on any inmate who is in labor.
  - c. Leg restraints shall not be used on a pregnant inmate who is not in a wheelchair, bed, or gurney.
  - d. Soft hand restraints may be used if the inmate is not actively experiencing contractions (e.g. travel for a clinic visit to the obstetrician). The restraints shall always be forward-facing, designed to restrain the person's hands in front of the person to protect the person and others.
  - e. When the inmate is on a bed or gurney, one hand or one leg may be restrained to the bed or gurney, unless removal of the restraint is requested by medical staff. The inmate should be given the choice of hand or leg restraints unless good security practice dictates otherwise.
7. All restraints will be removed when the inmate is in the labor and delivery room or when anesthesia is initiated. At that point, medical restraints may be ordered by the attending physician should they be seen as medically indicated.

8. The supervising officer will not leave the presence of an unrestrained inmate except during delivery or if requested to do so by medical staff during the performance of other medical procedures. At such times, the officer will remain in the immediate vicinity, accessible to hospital staff as needed.
- 
- F. Correctional Officers are expected to use good judgment at all times. Circumstances not anticipated in this Administrative Directive may require adjustments in the procedures above. Should deviation from this policy be required, the Correctional Officer must contact the Warden or Duty Warden as soon as the situation necessitating the adjustment has been adequately addressed. The Warden or Duty Warden will notify the Administrator of Medical Services who will review the action to determine whether better alternatives or policy changes are needed.
  - G. The facility shall make written findings within ten (10) days regarding the extraordinary medical or security circumstance that dictated the inmate to be restrained. The written findings shall be maintained for at least five (5) years.
  - H. If restraints are used during labor, ADC shall report the use of restraints during labor to the Board of Corrections and to the Attorney General.



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT: Inmate Death – Disposition of Remains - Designated Emergency Contacts-Access to Medical Records**

**NUMBER: 19-18-27**

**SUPERSEDE: 18-2712-31**

**APPLICABILITY: All Facilities, Staff, and Inmates**

**REFERENCE: AR 005, AR 804, Ark. Code Ann. Sections 17-101 20-17-101 through 20-17-103, 20-17-701 20-17-101 through 20-17-103, & 20-17-701 through 20-17-710 & 20-17-1401.** **PAGE 1 of 7** **20-**

**APPROVED: Original signed by Dexter Payne Wendy Kelley  
6/15/18**

**DATE:**

### **I. POLICY:**

It is the policy of the Arkansas ~~Division~~Department of Correction (ADC) to assume responsibility for the proper notification and disposition of the body in the event of the death of an inmate under the legal custody of the department. The notification is made based upon the Inmate's designated Primary or Alternate Emergency Contact whenever possible. It is also the policy of the Department to both protect the privacy interests of inmates and provide the inmate's Primary Emergency Contact with access to medical and mental health records, in addition to medical and mental health information, in the event of the inmate's death.

### **II. PURPOSE: EXPLANATION:**

This policy is to establish procedures to determine the disposition of remains in the event of an inmate death, and to follow the Inmate's designation as to the primary and alternate emergency contact including for emergency notification, the disclosure of otherwise confidential health information, and the disposition of property. This policy also provides for the disclosure of medical and mental health records to the inmate's Primary Emergency Contact as directed by the inmate and as requested by the Primary Emergency Contact after the inmate's death.

### III. DEFINITIONS:

- A. Death - An individual is dead who has sustained either:
1. Irreversible cessation of circulatory and respiratory functions; or
  2. Irreversible cessation of all functions of the entire brain, including the brain stem.
  3. A determination of death shall be made in accordance with accepted medical standards.
- B. Final disposition of the body - The burial, cremation, or legal anatomical donation of the body of a deceased inmate (A.C.A. Section 20-17-102 (a) (2)).
- ~~C.~~ Declaration of final disposition - An individual of sound mind and eighteen (18) or more years of age may execute at any time a declaration specifying the final disposition of his or her bodily remains at his or her death, provided the disposition is in accordance with existing laws, rules, and practices for disposing of human remains.
- ~~D.~~ Primary Emergency Contact – The person, over the age of 18, designated by the inmate to be contacted in the event of an emergency. The person can also be designated to receive medical, mental health, and/or dental information concerning the inmate, and can be designated to claim the inmate’s personal property held by the ADC.
- ~~E.~~ Alternate Emergency Contact - The person, over the age of 18, designated by the inmate to be contacted in the event the primary contact cannot be reached in an emergency. The person can also be designated to receive medical, mental health, and/or dental information concerning the inmate, and can be designated to claim the inmate’s personal property held by the ADC.
- F. Medical Information – a verbal description of an inmate’s medical history.
- G. Medical Records – a chronological record of all medical and dental complaints, examinations, diagnostic testing, consultations and results, and treatment provided to an inmate. The term Medical Records~~does not~~, for the purpose of this Administrative Directive, does not include x-rays, or other diagnostic records that can be interpreted only by a person trained to interpret such records. Records, which include professional interpretations of x-rays and similar diagnostic records are included within the term Medical Records. For the purposes of this Administrative Directive, the term Medical Records means those records created within three years preceding the date of a request for access to records.
- H. Mental Health Information – a verbal description of an inmate’s mental health history.
- ~~I.~~ Mental Health Records – all records created by the Mental Health Services Division and maintained as described in Mental Health Services Division Operational Policy No. 1162.00. For the purposes of this Administrative Directive, the term Medical Records means those records created within three years preceding the date of a request for access to records.



I. Unclaimed Body – a human body for which the next of kin or other claimant cannot be located; or does not exercise his or her right of disposition within the earlier of:

1. Two (2) days after notification of the death of the deceased, or
2. Five (5) days after the death of the deceased.

J. Remains - the cremated remains of a body

**IV. PROCEDURE:**

A. Emergency Contact Notification

1. Upon the death of an inmate in a department facility or the community, the Warden will immediately notify the Chaplain or designee, who will make~~and~~ immediate telephone notification to the Primary and/or Alternate Emergency Contact ~~shall be made by the Chaplain or designee~~, regardless of the time of day or night. If attempts to contact the primary emergency contact are not immediately successful, then a diligent effort shall be made to contact the alternate emergency contact. If unsuccessful, ~~then~~ notification shall be attempted following ~~the list found at~~ Section IV (2) ~~(d)~~ below. The identity of the deceased shall not be disclosed or confirmed to the media until the notification has been completed, or per the Director if, after a diligent effort by the chaplain or designee, the Primary Emergency Contact, Alternate Emergency Contact, or a relative of the inmate cannot be located for notification.
- ~~2.~~ Notification – Contact to claim/control disposition of the remains shall be made to the first person who can be reached in the following order:
  - a. The person appointed by the decedent in the decedent's Declaration of Final Disposition executed before his or her death, which shall be the primary emergency contact.
  - b. The person designated on the Emergency Contact Form by the inmate as the primary emergency contact.
  - c. The person designated on the Emergency Contact Form by the inmate as the alternate emergency contact.
  - d. Then in the following order:
    - (1) Spouse
    - (2) Child
    - (3) Parent
    - (4) Sibling
    - (5) Grandparent
    - (6) Grandchild
    - (7) Guardian
    - (8) Closest living relative

- e. If none of the above can be located, the Chaplain will request the county sheriff or such other person as may be required by law to conduct the search.
  - (1) The search shall be completed within five (5) days after the death or within five (5) days of the request.
- f. If the deceased is eighteen (18) years of age or older, the Chaplain will conduct a diligent search with the Department of Veterans Affairs to determine whether the deceased was a veteran.
- g. If a relative does not claim the body, a friend, representative of a fraternal society of which the deceased was a member, a veterans service organization as defined in the Missing in America Project Act, § 20-17-1401 et seq., the Department of Veterans Affairs, a representative of a charitable or religious group, or any other person willing to assume the responsibilities, may claim the body for burial or cremation at his or her expense as described in § 20-17-706(a)-(c).
- h. If none of the above choose to claim the body of the deceased inmate, or cannot be located, the Medical Services Administrator may notify a medical school that the body is unclaimed, and is available for use in the advancement or study of medical science.

3. ~~Upon notification to the person in Section IV (2) above paragraph two,~~ the staff making the notification shall inform them of the death and ~~provide~~ relate the relevant facts of the death, as provided by the Duty Warden and/or Internal Affairs, ~~and. The individual making contact shall consult with them the primary emergency contact~~ regarding the disposition of the body and provide the following information:

- a. ~~If claiming the body, he or she the primary emergency contact shall be advised to contact the Administrator Office of the State Medical and Dental Services Examiner for further information;~~
- b. ~~If not claiming the body or if, after a diligent effort by the facility Chaplain, the primary emergency contact, alternate emergency contact, or a relative cannot be notified, the~~ The responsibility for final disposition of an unclaimed body shall default to the ADC. After the Medical Examiner's Office has released the body, Department. The Administrator of Medical and Dental Services shall coordinate the arrangements ~~with an approved Funeral Director or UAMS~~ for the final disposition of the remains in accordance with state law.

## B. Financial Responsibility

- 1. Payment for services provided on behalf of a deceased inmate ~~will~~ shall be the responsibility of the person claiming the body.
- 2. ~~If the primary, alternate, or a relative does not claim the body, The ADC will assume responsibility for payment of~~ for services provided for the final disposition on behalf of a deceased inmate shall be the responsibility of an unclaimed body ~~the Department.~~

C. Final Disposition of the Body by the Department

1. The Authorization for Final Disposition form will be available to inmates during intake and through the chaplains' offices.
- ~~2. If the body is claimed, upon release by the Medical Examiner's office the Administrator of Medical and Dental Services shall release the body to the Claimant's appointed Funeral Director for final disposition.~~
- ~~3. If the body is not claimed and has been release by the Medical Examiner's office, the Administrator of Medical and Dental Services shall have the body cremated, unless the inmate executed has not completed a declaration of final disposition indicating that he or she did not wish to be cremated statement pursuant to the Arkansas Final Disposition Rights Act of 2009 opposing cremation.~~
- ~~2. If the body is not claimed and an authorized claimant requests, and the inmate's cremains, the cremains shall family does not object based upon religious beliefs opposing cremation that reflect the inmate's declared religion, the Department shall have the body cremated upon release by the Medical Examiner's office.~~
- ~~3. Cremains shall be released to the primary or alternate listed by the inmate. If none can be shipped to the claimant. If the cremains are not claimed within 20 located, the remains will be maintained for a minimum of ninety (90) days after being cremated for the next of kin to claim. If not claimed, the cremains shall be scattered in a designated cemetery. If there is an executed declaration as noted above, the body~~
- ~~4. Those bodies that are not claimed and not cremated due to the inmate's declaration or religious beliefs shall be buried in a designated cemetery.~~

D. Authorization to Share Health Information

The Arkansas Department of Correction will not disclose medical or mental health information to any person, including relatives of an inmate, inquiring about the inmate's condition, unless authorized by the inmate, or authorized by state or federal law. The inmate may designate two individuals to receive verbal medical or mental health information from the Administrator of Medical and Dental Services and/or his/her staff, from the Administrator of Mental Health Services and/or his/her staff, and the Deputy Director for Health & Correctional Programs and/or his/her staff. In addition, the inmate may designate that his or her Primary Emergency Contact may request copies of medical records or mental health records of the inmate in the event of the inmate's death. The inmate makes these permitted designations by completing the appropriate designation on the Emergency Contact Form and by executing any related medical or mental health record release. Such designations are at the option of the inmate including which if any of the designations are made.

E. Procedure for Requesting Medical and Mental Health Records

If the inmate has designated his or her Primary Emergency Contact as a potential recipient of his or her medical or mental health records, and the inmate has executed the required release(s), upon the inmate's death the Primary Emergency Contact may request copies of

medical or mental health records by identifying with specificity those records sought. Such a request must be made on an ADC Record Request Form and directed to the Administrator of Medical and Dental Services in the case of medical records and to the Administrator of Mental Health Services in the case of mental health records. The Department reserves the right to require that the person requesting records provide appropriate identification to assure that the requesting party is the inmate's designated Primary Emergency Contact. Also, the person designated to receive medical or mental health records cannot be a person who is incarcerated. An ADC Record Request Form is available on the Department's web site. The form is also available upon request from the Department.

F. Financial Responsibility for Medical and Mental Health Records

An inmate's Primary Emergency Contact seeking access to the inmate's medical or mental health records is required to specify the records sought. The Department will provide up to 10 pages of records free of charge. Additional records will be provided at the rate of twenty-five cents (\$.25) per page plus a retrieval fee of fifteen dollars (\$15). Payment is due to the Department's medical contractor in advance of the receipt of the records.

Authorization for Final Disposition

APPOINTMENT OF PERSON TO CONTROL DISPOSITION OF REMAINS

I, \_\_\_\_\_ (name and ADC number), being of sound mind, willfully and voluntarily make known my desire that, upon my death, the disposition of my remains shall be controlled by the person designated as my primary emergency contact with the Arkansas ~~Division~~Department of Correction. If that person dies, is unable to be located, or is unable to act, I appoint the alternate emergency contact provided to the Arkansas ~~Division~~Department of Correction with respect to the disposition of my remains.

SPECIAL DIRECTIONS:

Set forth below are any special directions limiting the power granted to my agent as well as any instructions or wishes desired to be followed in the disposition of my remains:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DURATION:

This appointment becomes effective upon my death.

PRIOR APPOINTMENT REVOKED:

I hereby revoke any prior appointment of any person to control the disposition of my remains.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(Signature of person making the appointment)

Statement by witness (must be 18 or older)

I declare that the person who executed this document is personally known to me and appears to be of sound mind and acting of his or her free will. He or she signed (or asked another to sign for him or her) this document in my presence.

Witness 1: \_\_\_\_\_ (Printed Name) \_\_\_\_\_ (Signature)

Witness 2: \_\_\_\_\_ (Printed Name) \_\_\_\_\_ (Signature)

## EMERGENCY CONTACT FORM

**Printed Name of Inmate** \_\_\_\_\_ **ADC#** \_\_\_\_\_

This form allows you to ensure that the person you want to be contacted **in case of an emergency** is listed in your records. If you do not want anyone contacted in the event of an emergency, write "NONE" on the "Name" line and sign the form at the bottom of the page. If there is anything that you do not clearly understand, ask a member of the staff to explain it to you. Contact(s) must be 18 or older.

**(PLEASE PRINT)**

**PRIMARY EMERGENCY CONTACT:**

Contact Name: \_\_\_\_\_ Phone: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Address: \_\_\_\_\_ Work/Cell Phone: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

City / State / Zip \_\_\_\_\_

Relationship: [ ] Parent; [ ] Spouse or partner; [ ] Sibling; [ ] Child; [ ] Friend; [ ] Is Dependent/Guardian; [ ] Lived with Inmate; [ ] Victim of Inmate; [ ] Accomplice of Inmate; [ ] Has Criminal History; [ ] Works in Law Enforcement; [ ] Other

Contact will be made with the second person on the list only if the person listed above cannot be reached **in case of an emergency**. If unable to reach the person listed above, contact:

**ALTERNATE EMERGENCY CONTACT:**

Alternate Name: \_\_\_\_\_ Phone: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Address: \_\_\_\_\_ Work/Cell Phone: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

City / State / Zip \_\_\_\_\_

Relationship: [ ] Parent; [ ] Spouse or partner; [ ] Sibling; [ ] Child; [ ] Friend; [ ] Is Dependent/Guardian; [ ] Lived with Inmate; [ ] Victim of Inmate; [ ] Accomplice of Inmate; [ ] Has Criminal History; [ ] Works in Law Enforcement; [ ] Other

Other \_\_\_\_\_

The following five items are entirely your choice. Your health condition is confidential and will only be released outside the ADC and the medical community with your permission. Place a check (✓)(+/-) in the box below to give permission to the person(s) listed above.

	PRIMARY	ALTERNATE
<b>Medical information may be shared with this individual:</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>In the event of my death, Medical records may be shared with this individual</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Mental Health information may be shared with this individual:</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>In the event of my death, Mental health records may be shared with this individual;</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Dental information may be shared with this individual:</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Medical decisions regarding inmate may be made by this individual:</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Authorized to claim inmate's personal property held by ADC:</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Substance Abuse Treatment information may be shared with this individual:</b>	<input type="checkbox"/>	<input type="checkbox"/>

You may add or change information or change the persons you want notified at any time. Request an Emergency Contact Form. Fill out only the information that needs to be changed. Sign the form in the presence of a member of staff who will witness your signature.

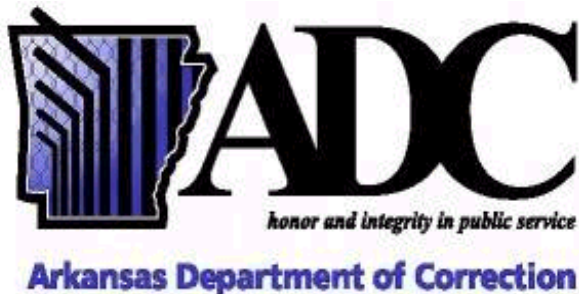
Printed Name of Inmate \_\_\_\_\_ ADC# \_\_\_\_\_ Signature of Inmate \_\_\_\_\_ Date \_\_\_\_\_

Printed Name of Witness

Unit

Signature of Witness

Date Entered in EOMIS



6814 Princeton Pike  
Pine Bluff, AR 71603  
Phone: 870-267-6999  
Fax: 870-267-6244  
www.adc.arkansas.gov

## ADMINISTRATIVE DIRECTIVE

**SUBJECT: Inmate Death – Disposition of Remains - Designated Emergency Contacts-Access to Medical Records**

**NUMBER: 19- 30**

**SUPERSEDE: 18-27**

**APPLICABILITY: All Facilities, Staff, and Inmates**

**REFERENCE: AR 005, AR 804, Ark. Code Ann. Sections 20-17-101 20-17-101 through 20-17-103, 20-17-701 through 20-17-710 & 20-17-1401**

**PAGE 1 of 7**

**APPROVED: Original signed by Dexter Payne**

**EFFECTIVE DATE: 9/11/2019**

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### **I. POLICY:**

It is the policy of the Arkansas Division of Correction (ADC) to assume responsibility for the proper notification and disposition of the body in the event of the death of an inmate under the legal custody of the department. The notification is made based upon the Inmate's designated Primary or Alternate Emergency Contact whenever possible. It is also the policy of the Department to both protect the privacy interests of inmates and provide the inmate's Primary Emergency Contact with access to medical and mental health records, in addition to medical and mental health information, in the event of the inmate's death.

**II. PURPOSE:** This policy is to establish procedures to determine the disposition of remains in the event of an inmate death, and to follow the Inmate's designation as to the primary and alternate emergency contact including for emergency notification, the disclosure of otherwise confidential health information, and the disposition of property. This policy also provides for the disclosure of medical and mental health records to the inmate's Primary Emergency Contact as directed by the inmate and as requested by the Primary Emergency Contact after the inmate's death.

### **III. DEFINITIONS:**

A. Death - An individual is dead who has sustained either:

1. Irreversible cessation of circulatory and respiratory functions; or



2. Irreversible cessation of all functions of the entire brain, including the brain stem.
  3. A determination of death shall be made in accordance with accepted medical standards.
- B. Final disposition of the body - The burial, cremation, or legal anatomical donation of the body of a deceased inmate (A.C.A. Section 20-17-102 (a) (2)).
- C. Declaration of final disposition - An individual of sound mind and eighteen (18) or more years of age may execute at any time a declaration specifying the final disposition of his or her bodily remains at his or her death, provided the disposition is in accordance with existing laws, rules, and practices for disposing of human remains.
- D. Primary Emergency Contact – The person, over the age of 18, designated by the inmate to be contacted in the event of an emergency. The person can also be designated to receive medical, mental health, and/or dental information concerning the inmate, and can be designated to claim the inmate’s personal property held by the ADC.
- E. Alternate Emergency Contact - The person, over the age of 18, designated by the inmate to be contacted in the event the primary contact cannot be reached in an emergency. The person can also be designated to receive medical, mental health, and/or dental information concerning the inmate, and can be designated to claim the inmate’s personal property held by the ADC.
- F. Medical Information – a verbal description of an inmate’s medical history.
- G. Medical Records – a chronological record of all medical and dental complaints, examinations, diagnostic testing, consultations and results, and treatment provided to an inmate. The term Medical Records, for the purpose of this Administrative Directive, does not include x-rays, or other diagnostic records that can be interpreted only by a person trained to interpret such records. Records, which include professional interpretations of x-rays and similar diagnostic records are included within the term Medical Records. For the purposes of this Administrative Directive, the term Medical Records means those records created within three years preceding the date of a request for access to records.
- H. Mental Health Information – a verbal description of an inmate’s mental health history.
- I. Mental Health Records – all records created by the Mental Health Services Division and maintained as described in Mental Health Services Division Operational Policy No. 1162.00. For the purposes of this Administrative Directive, the term Medical Records means those records created within three years preceding the date of a request for access to records.
- J. Unclaimed Body – a human body for which the next of kin or other claimant cannot be located; or does not exercise his or her right of disposition within the earlier of:
1. Two (2) days after notification of the death of the deceased, or
  2. Five (5) days after the death of the deceased.
- K. Remains - the cremated remains of a body

**IV. PROCEDURE:****A. Emergency Contact Notification**

1. Upon the death of an inmate in a department facility or the community, the Warden will immediately notify the Chaplain or designee, who will make immediate telephone notification to the Primary and/or Alternate Emergency Contact, regardless of the time of day or night. If attempts to contact the Primary Emergency Contact are not immediately successful, then a diligent effort shall be made to contact the Alternate Emergency Contact. If unsuccessful, notification shall be attempted following Section IV (2) below. The identity of the deceased shall not be disclosed or confirmed to the media until the notification has been completed, or per the Director if, after a diligent effort by the chaplain or designee, the Primary Emergency Contact, Alternate Emergency Contact, or a relative of the inmate cannot be located for notification.
2. Notification – Contact to claim/control disposition of the remains shall be made to the first person who can be reached in the following order:
  - a. The person appointed by the decedent in the decedent's Declaration of Final Disposition executed before his or her death, which shall be the primary emergency contact.
  - b. The person designated on the Emergency Contact Form by the inmate as the primary emergency contact.
  - c. The person designated on the Emergency Contact Form by the inmate as the alternate emergency contact.
  - d. Then in the following order:
    - (1) Spouse
    - (2) Child
    - (3) Parent
    - (4) Sibling
    - (5) Grandparent
    - (6) Grandchild
    - (7) Guardian
    - (8) Closest living relative
  - e. If none of the above can be located, the Chaplain will request the county sheriff or such other person as may be required by law to conduct the search.
    - (1) The search shall be completed within five (5) days after the death or within five (5) days of the request.
  - f. If the deceased is eighteen (18) years of age or older, the Chaplain will conduct a diligent search with the Department of Veterans Affairs to determine whether the deceased was a veteran.
  - g. If a relative does not claim the body, a friend, representative of a fraternal society of which the deceased was a member, a veterans service organization as defined in the Missing in America Project Act, § 20-17-1401 et seq., the Department of Veterans Affairs, a representative of a charitable or religious group, or any other

person willing to assume the responsibilities, may claim the body for burial or cremation at his or her expense as described in § 20-17-706(a)-(c).

- h. If none of the above choose to claim the body of the deceased inmate, or cannot be located, the Medical Services Administrator may notify a medical school that the body is unclaimed, and is available for use in the advancement or study of medical science.
3. Upon notification to the person in Section IV (2) above, the staff making the notification shall inform them of the death and provide the relevant facts of the death, as provided by the Duty Warden and/or Internal Affairs, and consult with them regarding the disposition of the body and provide the following information:
  - a. If claiming the body, he or she shall be advised to contact the Administrator of Medical and Dental Services for further information;
  - b. The responsibility for final disposition of an unclaimed body shall default to the ADC. After the Medical Examiner's Office has released the body, the Administrator of Medical and Dental Services shall coordinate the arrangements for the final disposition of the remains in accordance with state law.

**B. Financial Responsibility**

1. Payment for services provided on behalf of a deceased inmate will be the responsibility of the person claiming the body.
2. The ADC will assume responsibility for payment of services provided for the final disposition of an unclaimed body.

**C. Final Disposition of the Body by the Department**

1. The Authorization for Final Disposition form will be available to inmates during intake and through the chaplains' offices.
2. If the body is claimed, upon release by the Medical Examiner's office the Administrator of Medical and Dental Services shall release the body to the Claimant's appointed Funeral Director for final disposition.
3. If the body is not claimed and has been release by the Medical Examiner's office, the Administrator of Medical and Dental Services shall have the body cremated, unless the inmate executed a declaration of final disposition indicating that he or she did not wish to be cremated pursuant to the Arkansas Final Disposition Rights Act of 2009 opposing cremation.
4. If the body is not claimed and an authorized claimant requests the inmate's cremains, the cremains shall be shipped to the claimant. If the cremains are not claimed within 20 days after being cremated, the cremains shall be scattered in a designated cemetery. If there is an executed declaration as noted above, the body shall be buried in a designated cemetery.

**D. Authorization to Share Health Information**

The Arkansas Department of Correction will not disclose medical or mental health information to any person, including relatives of an inmate, inquiring about the inmate's condition, unless authorized by the inmate, or authorized by state or federal law. The inmate may designate two individuals to receive verbal medical or mental health information from the Administrator of

Medical and Dental Services and/or his/her staff, from the Administrator of Mental Health Services and/or his/her staff, and the Deputy Director for Health & Correctional Programs and/or his/her staff. In addition, the inmate may designate that his or her Primary Emergency Contact may request copies of medical records or mental health records of the inmate in the event of the inmate's death. The inmate makes these permitted designations by completing the appropriate designation on the Emergency Contact Form and by executing any related medical or mental health record release. Such designations are at the option of the inmate including which if any of the designations are made.

E. Procedure for Requesting Medical and Mental Health Records

If the inmate has designated his or her Primary Emergency Contact as a potential recipient of his or her medical or mental health records, and the inmate has executed the required release(s), upon the inmate's death the Primary Emergency Contact may request copies of medical or mental health records by identifying with specificity those records sought. Such a request must be made on an ADC Record Request Form and directed to the Administrator of Medical and Dental Services in the case of medical records and to the Administrator of Mental Health Services in the case of mental health records. The Department reserves the right to require that the person requesting records provide appropriate identification to assure that the requesting party is the inmate's designated Primary Emergency Contact. Also, the person designated to receive medical or mental health records cannot be a person who is incarcerated. An ADC Record Request Form is available on the Department's web site. The form is also available upon request from the Department.

F. Financial Responsibility for Medical and Mental Health Records

An inmate's Primary Emergency Contact seeking access to the inmate's medical or mental health records is required to specify the records sought. The Department will provide up to 10 pages of records free of charge. Additional records will be provided at the rate of twenty-five cents (\$.25) per page plus a retrieval fee of fifteen dollars (\$15). Payment is due to the Department's medical contractor in advance of the receipt of the records.

### Authorization for Final Disposition

#### **APPOINTMENT OF PERSON TO CONTROL DISPOSITION OF REMAINS**

I, \_\_\_\_\_ (name and ADC number), being of sound mind, willfully and voluntarily make known my desire that, upon my death, the disposition of my remains shall be controlled by the person designated as my primary emergency contact with the Arkansas Division of Correction. If that person dies, is unable to be located, or is unable to act, I appoint the alternate emergency contact provided to the Arkansas Division of Correction with respect to the disposition of my remains.

SPECIAL DIRECTIONS:

Set forth below are any special directions limiting the power granted to my agent as well as any instructions or wishes desired to be followed in the disposition of my remains:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DURATION:

This appointment becomes effective upon my death.

PRIOR APPOINTMENT REVOKED:

I hereby revoke any prior appointment of any person to control the disposition of my remains.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(Signature of person making the appointment)

Statement by witness (must be 18 or older)

I declare that the person who executed this document is personally known to me and appears to be of sound mind and acting of his or her free will. He or she signed (or asked another to sign for him or her) this document in my presence.

Witness 1: \_\_\_\_\_  
(Printed Name) (Signature)

Witness 2: \_\_\_\_\_  
(Printed Name) (Signature)





PO Box 8707  
Pine Bluff, AR 71611-8707  
Phone: 870-267-6999

## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** ~~Prenatal Care~~/Pregnant Inmates/Prenatal Care/Breast Pumping

**NUMBER:** ~~13-51~~

**SUPERSEDES:** ~~00-0613-51~~

**APPLICABILITY:** All Units/Centers Processing the Intake or Housing of Female Inmates

**REFERENCE:** ~~JAR 829- Prenatal Care/ Pregnant Inmates~~  
AR 835 - Grievance Procedure for Offenders  
Arkansas Code Ann. §§ 12-32-101, 102, and 103  
Adult Correctional Institutions ACA Standards

**PAGE:** 1 of 612

**APPROVED:** Original signed by ~~Ray Hobbs~~

**EFFECTIVE DATE:** 11/22/2013

### I. POLICY:

To ensure that pregnant inmates who enter the ~~Arkansas Department~~Division of Correction (ADC) are provided appropriate and timely counseling in planning for their unborn children.

To ensure that pregnant inmates in custody of the ~~Department of Correction~~ADC are provided prenatal care, postpartum care, and access to a breast pumping program ~~comprehensive health care services necessary to reach term~~ or to interrupt pregnancy in accordance with applicable statutes, standards, and regulations.

### II. EXPLANATIONPURPOSE:

Comprehensive counseling and assistance shall be provided to pregnant inmates in keeping with their expressed desire in planning for their unborn children.

Counseling and social services shall be available from ADC staff and/or through community based agencies as facilitated by ADC staff.

### III. **DEFINITIONS:**

- A. “ADC Staff” means All employees paid by or engaged by contract to provide service(s) to the ~~Department~~ Division of Correction.
- B. “Inmate” -means Any individual committed to or placed within the custody of the ~~Department~~ Division of Correction.
- C. “Labor” means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;
- D. “Post-partum” means, as determined by the physician of the inmate, the thirty-day period following delivery of a child; and
- E. “Restraints” means a physical restraint or mechanical device used to control the movement of an inmate's body or limbs.
- F. “Caregiver” means the individual who shall assume care and custody of the infant post-delivery.
- G. “Health care staff” means a person who perform clinical duties, such as health care practitioners, nurses, licensed professional counselors, social workers, and emergency medical technicians in accordance with each health care professional’s scope of training and applicable licensing, registration, certification, and regulatory requirements.

### IV. **PROCEDURE:**

- A. Initial Screening
  - 1. At time of intake/receiving into an ADC facility, an inquiry shall be made by appropriate ADC staff as to the status of pregnancy of all female inmates. -Inquiry and resultant response shall be made a permanent part of any intake-screening document.



2. A female inmate who is obviously pregnant, or responds to inquiry in a manner which may suggest that the inmate may be pregnant, shall be referred to health care staff for immediate evaluation prior to placement in any institutional housing area. Intake/receiving staff shall record such health care referral as a permanent part of any intake screening document(s).
  
3. Upon receipt of intake/receiving referral, health care staff shall conduct an appropriate physical assessment of the inmate to determine need for immediate examination by a physician or mid-level practitioner. ~~The provider assessment shall include determination as to immediate need for prescriptive medication(s), dietary accommodation(s), and/or need for special housing or physical activity restriction(s). The provider Health care staff shall record this assessment in the electronic health record, as a special entry within the inmate's permanent health care record and made making it available for review by health care staff, the unit/facility physician or mid-level practitioner at time of regularly scheduled intake health appraisal.~~

B. Health Services

1. All inmates entering ADC shall receive a complete health appraisal within seven (7) calendar days of reception into the ~~Department~~ Division of Correction.
  
2. As part of this health appraisal, all female inmates shall have a urine pregnancy test performed and documented in the electronic health record. ~~Test results shall be made a standard entry to the ADC form MSF-100, Report of Physical Examination.~~ Verification of early term shall be accomplished via a blood test.
  
3. The following shall be required of inmates identified as pregnant:
  - a. Pregnant inmates shall be ~~examination~~ by a physician to determine level of pregnancy term, i.e., 1<sup>st</sup> trimester, etc., and the need for supportive health services such as follow-up examinations, special laboratory procedures, diet, vitamins, referral to obstetrical care, and/or other special needs; and,
  
  - b. Pregnant inmates shall be ~~referred~~ to the unit/facility staff ~~ADC~~ social worker for establishment of a post-delivery Infant Care Plan ~~(IV.C)~~.

4. Throughout her term of pregnancy while in the custody of the ~~Department of Correction~~ADC, a pregnant inmate shall be assigned a lower bunk, receive appropriate prenatal care from an obstetrician and routine acute/chronic care health support ~~by unit/facility medical~~from health care staff. In addition, unit/~~facility~~ health care and social service staff shall ensure that pregnant inmates are provided access to prenatal/post-partum education and counseling assistance, as may be required, to prepare the pregnant inmate for labor, delivery, and separation from her newborn after delivery.
5. As determined by and under the direction of the unit/~~facility provider~~physician or attending obstetrician, unit ~~/facility medical~~health care staff shall coordinate the delivery of any required mental health services to ensure total care for the pregnant inmate. ~~Unit/facility medical~~ health care staff shall also establish and coordinate with the attending obstetrician matters related to hospital/institution discharge planning; the latter as may be necessary should an inmate be subject to release from the custody of ADC prior to or at the time of scheduled delivery.
6. ~~Health care program managers~~The Unit Health Services Administrator, in conjunction with attending obstetrical staff, shall ensure that a pregnant inmate is provided a reasonable opportunity for post-delivery contact and interaction with her newborn child. ~~For purposes of this Directive, 'reasonable' shall mean no less than 24 hours post-delivery.~~
7. Reasonable and prudent correctional practices shall be applied to pregnant inmates. The use of security restraint devices, such as handcuffs/shackles, etc., shall be in accordance with Administrative Directive, Movement and Restraint of Pregnant Inmates. ~~established policy. At no time shall any such device be applied to a pregnant inmate during the final stages of active labor, while occupying a delivery room, or if such application is determined by a physician to be a health risk to the unborn child or the health status of the inmate. In situations where there exists a valid custody concern as to the appropriate level or degree of security restraint device(s) to be applied to a pregnant inmate, the ADC Administrator of Medical Services shall be contacted. The Administrator's decision shall be final and binding on all parties.~~

#### C. Infant Care Plan

1. Upon the identification or confirmation of pregnancy, all pregnant inmates shall be referred to the ~~unit/facility~~ADC social worker who shall be responsible for the development of an Infant Care Plan.

2. The plan shall be styled as a 'Patient's Living Declaration' with the following components being required:
  - a. A statement by the pregnant inmate as to her desire to go full term with pregnancy and her plan for the placement of the infant post-delivery, which may include adoption should that be the desire of the inmate.
  - b. Identification of ~~that~~the person(s) who shall assume care and custody of the infant post-delivery and until such time as the inmate is released from custody/confinement of ADC.
    - ~~i(1)~~    The person(s) identified by the inmate as post-delivery custodian/caregiver(s) must meet the ADC eligibility requirements for visitation of inmates.
    - ~~ii(2)~~ If the person(s) identified by the inmate as post-delivery custodian/caregiver of the infant is a blood-relative of the mother or infant, a durable Power of Attorney shall be required to take custody of the inmate's child. ~~-A durable Power of Attorney is not required of a legal spouse.~~
    - ~~iii(3)~~ If the person(s) identified by the inmate as post-delivery custodian/caregiver of the infant is not a blood-relative of the mother or infant, or legal spouse, the custodianperson(s) shall be required to petition and obtain an Order of Appointment as Temporary Guardian for a Minor.
  - c. Should an inmate be unable to identify a person(s) who meets the conditions specified by ~~subP~~paragraph ~~b. above C.2.b.(2) or C.2.b.(3)~~ herein, the ADC social worker shall make immediate referral of the case to the Division of Child and Family Services, Arkansas Department of Human Services.
  - d. If the ADC staff social worker determines that the proposed custodial/caregiver candidate does not meet visitation eligibility requirements, he/she shall meet again with the inmate to determine an alternative custodian.

- e. If the proposed custodian/caregiver meets the visitation eligibility requirements, the ADC social worker shall refer the candidate to DHS for a background check within the DHS Child Abuse Registry. -DHS shall communicate findings of such review to the ADC social worker.
- f. Any custodial/caregiver candidate who does not meet visitation eligibility requirements or who appears on the DHS Child Abuse Registry will not be approved as a custodian/caregiver by ADC. -DHS Division of Child and Family Services may, upon application by the inmate, have the discretion to approve a custodial/caregiver candidate found ineligible pursuant to ADC criteria.
- g. Person(s) who meet the conditions of subparagraph b. above Paragraph C.2.b.(2) or C.2.b.(3) herein, to include legal spouse, shall, in addition to any other requirements, be required to submit a notarized statement of understanding that, upon delivery of the infant from an inmate ~~confined~~ in ADC custody, the person(s) designated shall assume all financial responsibility for the infant at and after delivery; this to include any intensive care services or protracted hospitalization needs that may be required for the infant.

D. Termination of Pregnancy

1. ADC shall not intentionally be engaged in the decision-making process of an inmate to seek termination of her pregnancy.
2. Should an inmate desire to seek termination of her pregnancy, a written request shall be submitted to the unit/facility physician who shall thereafter conduct an interview with the inmate and coordinate thereafter an appointment with an appropriate community-based Family Planning Clinic.
3. ADC shall accommodate transportation of an inmate to and from any scheduled appointment with a community-based Family Planning Clinic. -All costs, including transportation costs, associated with the appointment or any subsequent service(s) determined necessary and with the informed consent of the inmate shall be borne by the inmate, her family, or other third-party payer. -ADC shall not authorize the expenditure of any State funds for the purpose of paying for the interruption of a

pregnancy EXCEPT in cases of saving the mother's life or as otherwise required by federal law.

#### E. Breast Pumping

Participation in the breast-pumping program is voluntary, subject to meeting the requirements; participation is limited to 12 months post-delivery. -Any inmate that decides to provide breast milk after delivery must submit written notification to the ~~Arkansas Department~~Division of Correction (ADC) Social Worker and the Unit Superintendent/Warden or Deputy Warden, at a minimum thirty days prior to their expected delivery date.

1. An inmate who gives birth while in ADC custody may be allowed to breastfeed at the hospital post-delivery, during visitation, and may be allowed to pump breast milk for up to one (1) year after the infant's birth as set forth below.
  - a. An inmate in the breast-pumping program will be allowed weekly visits with the caregiver, if the caregiver is bringing the infant to breastfeed. This does not supersede visitation restrictions.
2. Prior to participating in the breast pumping program the following are required:
  - a. A providers written order giving medical clearance after reviewing medications prescribed to the inmate and determining such medications are not harmful to the infant and that breast pumping would not be harmful to the mother's health;
  - b. A signed inmate and caregiver Breast Pumping Program Agreement (Attachments #1 and #2); and
  - c. The approval of the ADC Social Worker and the Unit Superintendent/Warden or Deputy Warden.
3. Health care staff shall educate the inmate about the benefits of breastfeeding, including nutritional value and immunity factors, and the risks of breastfeeding, including the effects of illicit drug use and certain medications.
4. Health care staff shall provide instructions on assembly, use, disassembly, and cleaning of the breast pump and the storage and handling of expressed breast milk.
5. The ~~Arkansas Department~~Division of Correction, ADC staff, or contracted staff will not be held responsible for the safety or quality of the breast milk.
6. The inmate shall be provided a pregnancy diet and/or nutritional supplements, when indicated and ordered by the health care provider.

7. The following shall be issued to the inmate and kept in a designated storage area or the inmates assigned housing area:
  - a. Electric breast pump tubing, and collection bags
  - b. Clean breast milk containers,
  - c. Pen for labeling containers with name, ADC number, and date of pumping
  - d. One extra bath towel and a small stack of paper towels for drying equipment
  - e. Breast pads to prevent milk leakage from soaking clothing and
  - f. One extra bra and one extra state issued t-shirt
8. The inmate is responsible for using and cleaning equipment and other issued items as instructed. -Staff may inspect any equipment and other issued items at any time for any reason.
9. The inmate is responsible for requesting (in writing) any items needed for pumping at least five (5) days in advance of the anticipated need.
10. The inmate will be required to pump every four (4) hours, changes to this schedule require an order by the unit provider, however, pumping will not be allowed during count times or other emergency events that disrupt facility operations.
11. There shall be a locked refrigerator in the housing area and designated security staff shall have the key. -Immediately after pumping, the inmate shall request that staff unlock the refrigerator so that she can place the sealed and properly labeled container(s) in the refrigerator. -If the inmate does not label the container as required, the breast milk shall be discarded.
12. If an inmate participating in the breast-pumping program is placed in restrictive housing, accommodations will be made to allow the inmate to continue breast pumping.
13. Security staff shall monitor and maintain the refrigerator temperatures and record temperatures on a daily basis on the temperature log.

#### F. Distribution of Breast Milk

1. Breast milk should be picked up twice weekly; however, it must be picked up within five (5) days after being pumped.
2. If the breast milk cannot be picked up within five (5) days after being pumped, the breast milk will be discarded.
3. Discarding any breast milk requires the approval of the Unit Superintendent/Warden or Deputy Warden.

4. The caregiver may designate up to three (3) individuals and/or volunteers (maximum 3) to pick up the inmates breast milk. -The designated individuals must bring a cooler for the breast milk. -Security will maintain a list of individuals allowed to pick up breast milk, which will be located in the front entrance building.
5. At the conclusion of a visit with the visitor who has been approved to pick up breast milk:
  - a. The inmate will ask designated staff to unlock the refrigerator;
  - b. The inmate will obtain the breast milk and prepare it to be transported to the visitation area;
  - c. The inmate will allow security staff to inspect the bag before giving it to the visitor;
  - d. The inmate will transfer the bag to the visitor in the immediate presence of security staff; and
  - e. The inmate will not pass anything else or receive anything from the visitor.
6. The ADC will not arrange or pay for the pickup of the breast milk at the facility nor provide a cooler or any other container for transporting the breast milk. -ADC will not deliver or ship breast milk.
7. The ~~Arkansas Department~~ivision of Correction, ADC staff, or contracted staff will not be held responsible for the safety or quality of the breast milk.

#### G. Discontinuation of Breast Pumping

1. Failure to pump regularly will be reported to the Unit Superintendent/Warden or Deputy Warden and participation in the program may be discontinued.
2. If the breast milk is not picked up for three (3) consecutive weeks, or is not picked up four (4) times in a three-month period, participation in the program will be discontinued.
3. If the caregiver or inmate decides not to participate in the program, the program will be discontinued.
4. Participation in the program may be discontinued if the Unit Superintendent/Warden or Deputy Warden determines that the inmate or caregiver is not adhering to the signed agreement.

E.H. Any pregnant inmate who determines it necessary to complain on her own behalf regarding the requirements or application of this Administrative Directive is directed to address such complaint in accordance with Administrative Regulation 835.

~~F.I.~~ Any case, case matter, or day-to-day procedure not adequately addressed by the requirements of this Administrative Directive shall be referred to the attention of the ADC Administrator of Medical Services for review and direction.

**V. STANDARDS ATTACHMENTS:**

Attachment I

Attachment II

~~American Correctional Association (ACA), Adult Correctional Facilities, 3d Edition Standards 3-4387~~

~~National Commission on Correctional Health Care (NCCHC) Prison Standards #51, #55, and #58~~

**VI. REFERENCES:**

~~AR 001—Administrative Regulations, Directives & Memoranda~~

~~JAR 835—Grievance Procedure for Offenders~~



Attachment I**Arkansas Department**Division of Correction**Inmate Breast Pumping Program Agreement**

Participation in the breast-pumping program is voluntary, subject to meeting the requirements; participation is limited to 12 months after delivery. Any inmate that decides to provide breast milk after delivery must submit written notification to the ADC Social Worker, and the Unit Superintendent/Warden or Deputy Warden, a minimum of thirty days prior to their expected delivery date.

The inmate must agree to the following mandatory requirements:

1. Prior to participating in the program, the inmate has to be screened and approved by the unit health care provider.
2. Prior to participating in the program, there must be a signed inmate agreement.
3. Prior to an inmate participating in the program, a review, and approval by the ADC Social Worker and the Unit Superintendent/Warden or Deputy Warden is required.
4. The inmate will follow instructions on assembly, use, disassembly, and cleaning of the breast pump and the storage and handling of breast milk.
5. Once approved, the following shall be issued and kept in a designated storage area or the inmates assigned housing area:
  - a. Electric breast pump tubing, and collection bags
  - b. Clean breast milk containers,
  - c. Pen for labeling containers with name, ADC number, and date of pumping
  - d. One extra bath towel and a small stack of paper towels for drying equipment
  - e. Breast pads to prevent milk leakage from soaking clothing and
  - f. One extra bra and one extra state issued t-shirt
6. The inmate is responsible for requesting, in writing, any items needed for pumping at least five (5) days in advance.

7. The inmate will be required to pump every four (4) hours, changes to this schedule require an order by the unit provider, however, pumping will not be allowed during count times or other emergency events that disrupt facility operations.
8. Failure to pump regularly will be reported to the Unit Superintendent/Warden or Deputy Warden and may result in expulsion from the program.
9. Discarding any breast milk requires the approval of the Unit Superintendent/Warden or Dep **Attachment I** Warden.
10. There will be a locked refrigerator in a designed area and the key will be assigned to designated security staff. Immediately after pumping, the inmate will request staff to unlock the refrigerator so she can place the sealed and properly labeled container(s) in the refrigerator. If the inmate does not properly label the container(s), the breast milk will be discarded.
11. Breast milk should be picked up twice weekly; however, it must be picked up within five (5) days after being pumped.
12. If the breast milk cannot be picked up within five (5) days after being pumped, the breast milk will be discarded.
13. The inmate is responsible to use and clean the equipment and other issued items as instructed.
14. Staff can inspect any equipment at any time for any reason.
15. The caregiver may designate up to three individuals and/or volunteers (maximum of 3) to pick up the inmates breast milk. The designated individuals must bring a cooler for the breast milk.
16. At the conclusion of a visit with the visitor who has been approved to pick up breast milk:
  - a. The inmate will ask designated staff to unlock the refrigerator;
  - b. The inmate will obtain the breast milk and prepare it to be transported to the visitation area;
  - c. The inmate will allow security staff to inspect the bag before giving it to the visitor;
  - d. The inmate will transfer the bag to the visitor in the immediate presence of security staff; and
  - e. The inmate will not pass anything else or receive anything from the visitor.
17. The inmate acknowledges that if the breast milk is not picked up for three (3) consecutive weeks, or is not picked up four (4) times in a three-month period, participation in the program will be discontinued.
18. The inmate acknowledges that ADC will not arrange or pay for the pickup of the breast milk, nor provide a cooler or any other container for transporting the breast milk. ADC will not deliver or ship breast milk.
19. If the caregiver or inmate decides not to participate in the program, the program will be discontinued.
20. The inmate agrees that the ~~Arkansas Department Division~~ of Correction, ADC staff, or contracted staff will not be held responsible for the safety or quality of the breast milk.
21. I acknowledge that I have read or had read to me this agreement and agree to adhere to all the terms of this agreement.

Inmate Signature Unit Date

ADC Social Worker Signature Date

Unit Superintendent/Warden or Deputy Warden Date

Attachment II

**Arkansas Department of Correction**

**Caregiver Breast Pumping Program Agreement**

Participation in the breast-pumping program is voluntary, subject to meeting the requirements; participation is limited to 12 months after delivery. A caregiver that decides to participate in the breast-pumping program must submit written notification to the ADC Social Worker, and the Unit Superintendent/Warden or Deputy Warden, a minimum of thirty days prior to the expected delivery date.

The Caregiver must agree to the following mandatory requirements:

1. Prior to participating in the program, there must be a signed caregiver agreement.
2. Prior to an inmate participating in the program, a review, and approval by the ADC Social Worker is required.
3. The caregiver or designated individual will pick up the breast milk. Breast milk should be picked up twice weekly; however, it must be picked up within five (5) days after being pumped.
4. If the breast milk cannot be picked up within five (5) days after being pumped, the breast milk will be discarded.
5. The caregiver may designate up to three (3) individuals and/or volunteers (maximum of 3) to pick up the inmates breast milk.
6. The caregiver must submit written notification to the Unit Superintendent/Warden or Deputy Warden, indicating the full name of the designated individual(s).
7. The designated individual must show a valid I.D. to pick up breast milk and must bring a cooler or appropriate container for transporting breast milk.
8. At the conclusion of a visit with the visitor who has been approved to pick up breast milk:
  - a. The inmate will ask designated staff to unlock the refrigerator;
  - b. The inmate will obtain the breast milk and prepare it to be transported to the visitation area;
  - c. The inmate will allow security staff to inspect the bag before giving it to the visitor;

- d. The inmate will transfer the bag to the visitor in the immediate presence of security staff; and
  - e. The inmate will not pass anything else or receive anything from the visitor.
9. The caregiver acknowledges that if the breast milk is not picked up for three (3) consecutive weeks, or is not picked up four (4) times in a three-month period, participation in the program will be discontinued.

**Attachment II**

10. The caregiver acknowledges that ADC will not arrange or pay for the pickup of the breast milk, nor provide a cooler or any other supplies for transporting the breast milk. ADC will not deliver or ship breast milk.
11. If the caregiver or inmate decides not to participate, the program will be discontinued.
12. The caregiver agrees that the ~~Arkansas Department~~Division of Correction, ADC staff, or contracted staff will not be held responsible for the safety or quality of the breast milk.
13. I acknowledge that I have read or had read to me this agreement and agree to adhere to all the terms of this agreement.

Caregiver Signature	Unit	Date
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ADC Social Worker Signature	Date
-----------------------------	------

Unit Superintendent/Warden or Deputy Warden	Date
---	------



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Pregnant Inmates/Prenatal Care/Breast Pumping

**NUMBER:** 19-31

**SUPERSEDES:** 13-51

**APPLICABILITY:** All Units/Centers Processing the Intake or Housing of Female Inmates

**REFERENCE:** AR 829- Prenatal Care/ Pregnant Inmates  
AR 835 - Grievance Procedure for Offenders  
Arkansas Code Ann. §§ 12-32-101, 102, and 103  
Adult Correctional Institutions ACA Standards

**PAGE:** 1 of 12

**APPROVED:** Original signed by Dexter Payne

**EFFECTIVE DATE:** 9/16/2019

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### **I. POLICY:**

To ensure that pregnant inmates who enter the Division of Correction (ADC) are provided appropriate and timely counseling in planning for their unborn children.

To ensure that pregnant inmates in custody of the ADC are provided prenatal care, postpartum care, and access to a breast pumping program or to interrupt pregnancy in accordance with applicable statutes, standards, and regulations.

### **II. PURPOSE:**

Comprehensive counseling and assistance shall be provided to pregnant inmates in keeping with their expressed desire in planning for their unborn children.

Counseling and social services shall be available from ADC staff and/or through community based agencies as facilitated by ADC staff.

### **III. DEFINITIONS:**

A. "ADC Staff" means all employees paid by or engaged by contract to provide service(s) to the Division of Correction.

- B. “Inmate” means any individual committed to or placed within the custody of the Division of Correction.
- C. “Labor” means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;
- D. “Post-partum” means, as determined by the physician of the inmate, the thirty-day period following delivery of a child; and
- E. “Restraints” means a physical restraint or mechanical device used to control the movement of an inmate's body or limbs.
- F. “Caregiver” means the individual who shall assume care and custody of the infant post-delivery.
- G. “Health care staff” means a person who perform clinical duties, such as health care practitioners, nurses, licensed professional counselors, social workers, and emergency medical technicians in accordance with each health care professional’s scope of training and applicable licensing, registration, certification, and regulatory requirements.

#### IV. **PROCEDURE:**

- A. Initial Screening
  - 1. At time of intake/receiving into an ADC facility, an inquiry shall be made by appropriate ADC staff as to the status of pregnancy of all female inmates. Inquiry and resultant response shall be made a permanent part of any intake-screening document.
  - 2. A female inmate who is obviously pregnant, or responds to inquiry in a manner which may suggest that the inmate may be pregnant, shall be referred to health care staff for immediate evaluation prior to placement in any institutional housing area. Intake/receiving staff shall record such health care referral as a permanent part of any intake screening document(s).
  - 3. Upon receipt of intake/receiving referral, health care staff shall conduct an appropriate physical assessment of the inmate to determine need for immediate examination by a physician or mid-level practitioner. The provider assessment shall include determination as to immediate need for prescriptive medication(s), dietary accommodation(s), and/or need for special housing or physical activity restriction(s). The provider shall record this assessment in the electronic health record, making it available for review by health care staff.
- B. Health Services
  - 1. All inmates entering ADC shall receive a complete health appraisal within seven (7) calendar days of reception into the Division of Correction.

2. As part of this health appraisal, all female inmates shall have a urine pregnancy test performed and documented in the electronic health record. Verification of early term shall be accomplished via a blood test.
3. The following shall be required of inmates identified as pregnant:
  - a. Pregnant inmates shall be examined by a physician to determine level of pregnancy term, i.e., 1<sup>st</sup> trimester, etc., and the need for supportive health services such as follow-up examinations, special laboratory procedures, diet, vitamins, referral to obstetrical care, and/or other special needs; and,
  - b. Pregnant inmates shall be referred to the ADC social worker for establishment of a post-delivery Infant Care Plan.
4. Throughout her term of pregnancy while in the custody of the ADC, a pregnant inmate shall be assigned a lower bunk, receive appropriate prenatal care from an obstetrician and routine acute/chronic care health support from health care staff. In addition, unit health care and social service staff shall ensure that pregnant inmates are provided access to prenatal/post-partum education and counseling assistance, as may be required, to prepare the pregnant inmate for labor, delivery, and separation from her newborn after delivery.
5. As determined by and under the direction of the unit provider or attending obstetrician, unit health care staff shall coordinate the delivery of any required mental health services to ensure total care for the pregnant inmate. Unit health care staff shall also establish and coordinate with the attending obstetrician matters related to hospital/institution discharge planning; the latter as may be necessary should an inmate be subject to release from the custody of ADC prior to or at the time of scheduled delivery.
6. The Unit Health Services Administrator, in conjunction with attending obstetrical staff, shall ensure that a pregnant inmate is provided a reasonable opportunity for post-delivery contact and interaction with her newborn child. For purposes of this Directive, 'reasonable' shall mean no less than 24 hours post-delivery.
7. Reasonable and prudent correctional practices shall be applied to pregnant inmates. The use of security restraint devices, such as handcuffs/shackles, etc., shall be in accordance with Administrative Directive, Movement and Restraint of Pregnant Inmates.

C. Infant Care Plan

1. Upon the identification or confirmation of pregnancy, all pregnant inmates shall be referred to the ADC social worker who shall be responsible for the development of an Infant Care Plan.
2. The plan shall be styled as a 'Patient's Living Declaration' with the following components being required:

- a. A statement by the pregnant inmate as to her desire to go full term with pregnancy and her plan for the placement of the infant post-delivery, which may include adoption should that be the desire of the inmate.
- b. Identification of the person(s) who shall assume care and custody of the infant post-delivery and until such time as the inmate is released from custody/confinement of ADC.
  - i. The person(s) identified by the inmate as post-delivery custodian/caregiver(s) must meet the ADC eligibility requirements for visitation of inmates.
  - ii. If the person(s) identified by the inmate as post-delivery custodian/caregiver of the infant is a blood-relative of the mother or infant, a durable Power of Attorney shall be required to take custody of the inmate's child. A durable Power of Attorney is not required of a legal spouse.
  - iii. If the person(s) identified by the inmate as post-delivery custodian/caregiver of the infant is not a blood-relative of the mother or infant, or legal spouse, the person(s) shall be required to petition and obtain an Order of Appointment as Temporary Guardian for a Minor.
- c. Should an inmate be unable to identify a person(s) who meets the conditions specified by subparagraph b. above, the ADC social worker shall make immediate referral of the case to the Division of Child and Family Services, Arkansas Department of Human Services.
- d. If the ADC staff social worker determines that the proposed custodial/caregiver candidate does not meet visitation eligibility requirements, he/she shall meet again with the inmate to determine an alternative custodian.
- e. If the proposed custodian/caregiver meets the visitation eligibility requirements, the ADC social worker shall refer the candidate to DHS for a background check within the DHS Child Abuse Registry. DHS shall communicate findings of such review to the ADC social worker.
- f. Any custodial/caregiver candidate who does not meet visitation eligibility requirements or who appears on the DHS Child Abuse Registry will not be approved as a custodian/caregiver by ADC. DHS Division of Child and Family Services may, upon application by the inmate, have the discretion to approve a custodial/caregiver candidate found ineligible pursuant to ADC criteria.
- g. Person(s) who meet the conditions of subparagraph b. above, to include legal spouse, shall, in addition to any other requirements, be required to submit a notarized statement of understanding that, upon delivery of the infant from an inmate in ADC custody, the person(s) designated shall assume all financial responsibility for the infant at and after delivery; this to



include any intensive care services or protracted hospitalization needs that may be required for the infant.

D. Termination of Pregnancy

1. ADC shall not be engaged in the decision-making process of an inmate to seek termination of her pregnancy.
2. Should an inmate desire to seek termination of her pregnancy, a written request shall be submitted to the unit/facility physician who shall thereafter conduct an interview with the inmate and coordinate thereafter an appointment with an appropriate community-based Family Planning Clinic.
3. ADC shall accommodate transportation of an inmate to and from any scheduled appointment with a community-based Family Planning Clinic. All costs, including transportation costs, associated with the appointment or any subsequent service(s) determined necessary and with the informed consent of the inmate shall be borne by the inmate, her family, or other third-party payer. ADC shall not authorize the expenditure of any State funds for the purpose of paying for the interruption of a pregnancy EXCEPT in cases of saving the mother's life or as otherwise required by federal law.

E. Breast Pumping

Participation in the breast-pumping program is voluntary, subject to meeting the requirements; participation is limited to 12 months post-delivery. Any inmate that decides to provide breast milk after delivery must submit written notification to the Division of Correction (ADC) Social Worker and the Unit Superintendent/Warden or Deputy Warden, at a minimum thirty days prior to their expected delivery date.

1. An inmate who gives birth while in ADC custody may be allowed to breastfeed at the hospital post-delivery, during visitation, and may be allowed to pump breast milk for up to one (1) year after the infant's birth as set forth below.
  - a. An inmate in the breast-pumping program will be allowed weekly visits with the caregiver, if the caregiver is bringing the infant to breastfeed. This does not supersede visitation restrictions.
2. Prior to participating in the breast pumping program the following are required:
  - a. A providers written order giving medical clearance after reviewing medications prescribed to the inmate and determining such medications are not harmful to the infant and that breast pumping would not be harmful to the mother's health;
  - b. A signed inmate and caregiver Breast Pumping Program Agreement (Attachments #1 and #2); and
  - c. The approval of the ADC Social Worker and the Unit Superintendent/Warden or Deputy Warden.

3. Health care staff shall educate the inmate about the benefits of breastfeeding, including nutritional value and immunity factors, and the risks of breastfeeding, including the effects of illicit drug use and certain medications.
4. Health care staff shall provide instructions on assembly, use, disassembly, and cleaning of the breast pump and the storage and handling of expressed breast milk.
5. The Division of Correction, ADC staff, or contracted staff will not be held responsible for the safety or quality of the breast milk.
6. The inmate shall be provided a pregnancy diet and/or nutritional supplements, when indicated and ordered by the health care provider.
7. The following shall be issued to the inmate and kept in a designated storage area or the inmates assigned housing area:
  - a. Electric breast pump tubing, and collection bags
  - b. Clean breast milk containers,
  - c. Pen for labeling containers with name, ADC number, and date of pumping
  - d. One extra bath towel and a small stack of paper towels for drying equipment
  - e. Breast pads to prevent milk leakage from soaking clothing and
  - f. One extra bra and one extra state issued t-shirt
8. The inmate is responsible for using and cleaning equipment and other issued items as instructed. Staff may inspect any equipment and other issued items at any time for any reason.
9. The inmate is responsible for requesting (in writing) any items needed for pumping at least five (5) days in advance of the anticipated need.
10. The inmate will be required to pump every four (4) hours, changes to this schedule require an order by the unit provider, however, pumping will not be allowed during count times or other emergency events that disrupt facility operations.
11. There shall be a locked refrigerator in the housing area and designated security staff shall have the key. Immediately after pumping, the inmate shall request that staff unlock the refrigerator so that she can place the sealed and properly labeled container(s) in the refrigerator. If the inmate does not label the container as required, the breast milk shall be discarded.
12. If an inmate participating in the breast-pumping program is placed in restrictive housing, accommodations will be made to allow the inmate to continue breast pumping.
13. Security staff shall monitor and maintain the refrigerator temperatures and record temperatures on a daily basis on the temperature log.

**F. Distribution of Breast Milk**

1. Breast milk should be picked up twice weekly; however, it must be picked up within five (5) days after being pumped.
2. If the breast milk cannot be picked up within five (5) days after being pumped, the breast milk will be discarded.
3. Discarding any breast milk requires the approval of the Unit Superintendent/Warden or Deputy Warden.
4. The caregiver may designate up to three (3) individuals and/or volunteers (maximum 3) to pick up the inmates breast milk. The designated individuals must bring a cooler for the breast milk. Security will maintain a list of individuals allowed to pick up breast milk, which will be located in the front entrance building.
5. At the conclusion of a visit with the visitor who has been approved to pick up breast milk:
  - a. The inmate will ask designated staff to unlock the refrigerator;
  - b. The inmate will obtain the breast milk and prepare it to be transported to the visitation area;
  - c. The inmate will allow security staff to inspect the bag before giving it to the visitor;
  - d. The inmate will transfer the bag to the visitor in the immediate presence of security staff; and
  - e. The inmate will not pass anything else or receive anything from the visitor.
6. The ADC will not arrange or pay for the pickup of the breast milk at the facility nor provide a cooler or any other container for transporting the breast milk. ADC will not deliver or ship breast milk.
7. The Division of Correction, ADC staff, or contracted staff will not be held responsible for the safety or quality of the breast milk.

**G. Discontinuation of Breast Pumping**

1. Failure to pump regularly will be reported to the Unit Superintendent/Warden or Deputy Warden and participation in the program may be discontinued.
2. If the breast milk is not picked up for three (3) consecutive weeks, or is not picked up four (4) times in a three-month period, participation in the program will be discontinued.
3. If the caregiver or inmate decides not to participate in the program, the program will be discontinued.

4. Participation in the program may be discontinued if the Unit Superintendent/Warden or Deputy Warden determines that the inmate or caregiver is not adhering to the signed agreement.
  
- H. Any pregnant inmate who determines it necessary to complain on her own behalf regarding the requirements or application of this Administrative Directive is directed to address such complaint in accordance with Administrative Regulation 835.
  
- I. Any case, case matter, or day-to-day procedure not adequately addressed by the requirements of this Administrative Directive shall be referred to the attention of the ADC Administrator of Medical Services for review and direction.

**V. ATTACHMENTS:**

Attachment I

Attachment II

## Division of Correction

### Inmate Breast Pumping Program Agreement

Participation in the breast-pumping program is voluntary, subject to meeting the requirements; participation is limited to 12 months after delivery. Any inmate that decides to provide breast milk after delivery must submit written notification to the ADC Social Worker, and the Unit Superintendent/Warden or Deputy Warden, a minimum of thirty days prior to their expected delivery date.

The inmate must agree to the following mandatory requirements:

1. Prior to participating in the program, the inmate has to be screened and approved by the unit health care provider.
2. Prior to participating in the program, there must be a signed inmate agreement.
3. Prior to an inmate participating in the program, a review, and approval by the ADC Social Worker and the Unit Superintendent/Warden or Deputy Warden is required.
4. The inmate will follow instructions on assembly, use, disassembly, and cleaning of the breast pump and the storage and handling of breast milk.
5. Once approved, the following shall be issued and kept in a designated storage area or the inmates assigned housing area:
  - a. Electric breast pump tubing, and collection bags
  - b. Clean breast milk containers,
  - c. Pen for labeling containers with name, ADC number, and date of pumping
  - d. One extra bath towel and a small stack of paper towels for drying equipment
  - e. Breast pads to prevent milk leakage from soaking clothing and
  - f. One extra bra and one extra state issued t-shirt
6. The inmate is responsible for requesting, in writing, any items needed for pumping at least five (5) days in advance.
7. The inmate will be required to pump every four (4) hours, changes to this schedule require an order by the unit provider, however, pumping will not be allowed during count times or other emergency events that disrupt facility operations.
8. Failure to pump regularly will be reported to the Unit Superintendent/Warden or Deputy Warden and may result in expulsion from the program.
9. Discarding any breast milk requires the approval of the Unit Superintendent/Warden or Deputy Warden.
10. There will be a locked refrigerator in a designated area and the key will be assigned to designated security staff. Immediately after pumping, the inmate will request staff to unlock the refrigerator so

she can place the sealed and properly labeled container(s) in the refrigerator. If the inmate does not properly label the container(s), the breast milk will be discarded.

11. Breast milk should be picked up twice weekly; however, it must be picked up within five (5) days after being pumped.
12. If the breast milk cannot be picked up within five (5) days after being pumped, the breast milk will be discarded.
13. The inmate is responsible to use and clean the equipment and other issued items as instructed.
14. Staff can inspect any equipment at any time for any reason.
15. The caregiver may designate up to three individuals and/or volunteers (maximum of 3) to pick up the inmates breast milk. The designated individuals must bring a cooler for the breast milk.
16. At the conclusion of a visit with the visitor who has been approved to pick up breast milk:
  - a. The inmate will ask designated staff to unlock the refrigerator;
  - b. The inmate will obtain the breast milk and prepare it to be transported to the visitation area;
  - c. The inmate will allow security staff to inspect the bag before giving it to the visitor;
  - d. The inmate will transfer the bag to the visitor in the immediate presence of security staff; and
  - e. The inmate will not pass anything else or receive anything from the visitor.
17. The inmate acknowledges that if the breast milk is not picked up for three (3) consecutive weeks, or is not picked up four (4) times in a three-month period, participation in the program will be discontinued.
18. The inmate acknowledges that ADC will not arrange or pay for the pickup of the breast milk, nor provide a cooler or any other container for transporting the breast milk. ADC will not deliver or ship breast milk.
19. If the caregiver or inmate decides not to participate in the program, the program will be discontinued.
20. The inmate agrees that the Division of Correction, ADC staff, or contracted staff will not be held responsible for the safety or quality of the breast milk.
21. I acknowledge that I have read or had read to me this agreement and agree to adhere to all the terms of this agreement.

---

Inmate Signature

Unit

Date

---

ADC Social Worker Signature

Date

---

Unit Superintendent/Warden or Deputy Warden

Date

## Division of Correction

### Caregiver Breast Pumping Program Agreement

Participation in the breast-pumping program is voluntary, subject to meeting the requirements; participation is limited to 12 months after delivery. A caregiver that decides to participate in the breast-pumping program must submit written notification to the ADC Social Worker, and the Unit Superintendent/Warden or Deputy Warden, a minimum of thirty days prior to the expected delivery date.

#### The Caregiver must agree to the following mandatory requirements:

1. Prior to participating in the program, there must be a signed caregiver agreement.
2. Prior to an inmate participating in the program, a review, and approval by the ADC Social Worker is required.
3. The caregiver or designated individual will pick up the breast milk. Breast milk should be picked up twice weekly; however, it must be picked up within five (5) days after being pumped.
4. If the breast milk cannot be picked up within five (5) days after being pumped, the breast milk will be discarded.
5. The caregiver may designate up to three (3) individuals and/or volunteers (maximum of 3) to pick up the inmates breast milk.
6. The caregiver must submit written notification to the Unit Superintendent/Warden or Deputy Warden, indicating the full name of the designated individual(s).
7. The designated individual must show a valid I.D. to pick up breast milk and must bring a cooler or appropriate container for transporting breast milk.
8. At the conclusion of a visit with the visitor who has been approved to pick up breast milk:
  - a. The inmate will ask designated staff to unlock the refrigerator;
  - b. The inmate will obtain the breast milk and prepare it to be transported to the visitation area;
  - c. The inmate will allow security staff to inspect the bag before giving it to the visitor;
  - d. The inmate will transfer the bag to the visitor in the immediate presence of security staff; and
  - e. The inmate will not pass anything else or receive anything from the visitor.
9. The caregiver acknowledges that if the breast milk is not picked up for three (3) consecutive weeks, or is not picked up four (4) times in a three-month period, participation in the program will be discontinued.







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## ADMINISTRATIVE DIRECTIVE

**SUBJECT: Unit Entry Procedures for the Control of Contraband**

**NUMBER: 19-25**

**SUPERSEDES: 14-44**

**APPLICABILITY: All Employees, Visitors, and Inmates of the  
Arkansas Department of Correction**

**REFERENCE: AR 401 Searches for and Control of Contraband; PAGE 1 of 10  
AD 18-49 Searches of Inmates, Unit Searches & Control of Contraband;  
AD 18-46 Inmate Property Control;  
AD 19-09 Peace Officer Powers;  
Arkansas Code Annotated 12-27-107;  
Arkansas Code Annotated 25-17-301, et seq.;**  
**AR 865 Offender Visitation**

**APPROVED: Original Signed by Dexter Payne**

**EFFECTIVE DATE: 8/28/2019**

### **I. POLICY:**

It shall be the policy of the Arkansas Department of Correction (ADC) to have procedures in place to detect and deter the introduction, manufacture, possession or conveyance of contraband. Any visitor refusing to fully participate in a search or withdrawing from an ongoing search shall be escorted from Department property subject to the provisions below, and may be **indefinitely suspended** from visitation and phone privileges. Any staff refusing to fully participate in a search or attempting to withdraw from an ongoing search shall be escorted from Department property subject to the provisions below, and may be permanently barred from all ADC facilities. ADC Correctional Peace Officers are authorized to detain for a reasonable length of time any visitor or staff if **reasonable suspicion** exists that the individual is attempting to bring contraband into the facility. ADC

Correctional Peace Officers are authorized to make an arrest where **probable cause** exists that a criminal offense has been committed.

## II. **EXPLANATION:**

The control of contraband within a correctional environment is necessary to provide a safe, secure environment for inmates, employees, and visitors. The detection, interception and confiscation of contraband is essential to provide security and good order in the institution and is required to protect the public, staff and inmates.

## III. **APPLICABILITY**

The policy applies to all unit employees, inmates, visitors, and others who enter, or attempt to enter, any Arkansas Department of Correction Unit or Facility.

## IV. **DEFINITIONS**

As used in this Administrative Directive, the following definitions apply:

- A. **Anomaly:** Something that is peculiar, irregular, or difficult to classify. For purposes of this policy, it refers to an item that does not appear to be part of an individual's body or item of clothing.
- B. **Contraband:** Any item or items determined by the Board of Corrections or Arkansas Department of Correction to jeopardize the safety, security, or good order of its institutions, including but not limited to items which are illegal or banned by any relevant policy.
- C. **Staff:** All Arkansas Department of Correction employees, volunteers, contract medical and mental health employees, Arkansas Correctional School employees and employees of Riverside Vo-Tech.
- D. **Inmates:** Persons incarcerated in the Department of Correction.
- E. **Visitor:** Any individual who is neither an inmate nor staff, including but not limited to inmate family members or friends, vendors, state officials, law enforcement, members of the media, etc.
- F. **Strip Search:** An unclothed body search, which requires the person to remove his or her clothing in conformance with approved procedures and professional practices. A strip search of a visitor or staff will be performed by staff of the same gender as the person being searched.
- G. **Pat Search:** A clothed body search consisting of an individual's garments, and personal effects ready at hand, the body's surface, and area within the

individual's immediate control. The pat search of staff may be performed by an employee of either gender. The pat search of a visitor should be by an employee of the same gender.

- H. Reasonable Suspicion of Possession of Contraband: Circumstances based upon observation, use of screening devices and knowledge of reasonable and articulable facts sufficient to cause a reasonable person to conclude that the person entering, or attempting to enter, a Department unit or facility may possess contraband.

Factors for determining Reasonable Suspicion may include but are not limited to:

- (1) Demeanor of the person ;
  - (2) Gait and manner of the person;
  - (3) Whether the person is carrying and/or attempting to conceal any article or object;
  - (4) Manner of dress;
  - (5) Apparent effort to avoid identification or confrontation by officials;
  - (6) The time of day or night the person is observed;
  - (7) Information obtained from monitored conversation;
  - (8) Information received from background checks;
  - (9) Information obtained from reliable informants or third parties;
  - (10) The results of the use of screening devices (see Definitions J,K,L,M,N below) with respect to the person and
  - (11) Whether the individual is consorting with others whose conduct is "reasonably suspect".
- I. Probable Cause: A level of reasonable belief based on facts that can be articulated and would warrant a person of reasonable caution to believe that a criminal offense has been committed.
- J. Metal Detector: An electronic device used for detecting the presence of metallic objects.
- K. Cell Tower: An electronic device used to detect ferrous metals used in production of electronic items such as cell phones.
- L. Advanced Imaging Technology: A device used to safely screen an individual for both metallic and non-metallic contraband that may be concealed under clothing or within the body.
- M. Handheld tools: An electronic device used to screen for contraband, including a metal detector, cell phone detector, or other electronic device that can be easily held and manipulated by staff in searching a particular area of an individual, packages, or possessions.

- N. Ion Scanner: A device used to screen for drug residue on hands or other objects.

## V. ENTRY PROCEDURES

- A. Any individual seeking entry into any Unit or Facility of the Arkansas Department of Correction must successfully navigate all physical and electronic security checkpoints, except members of the Parole Board, Board of Corrections, the Arkansas General Assembly, Governor's Office, law enforcement officers requested to assist the Department, and those individuals allowed by the Warden. These excepted individuals will be met at the Entrance Building by a Deputy Warden or Warden for escort into the Unit or Facility when clearance of the electronic security checkpoints is not required by the Warden.
1. Physical and electronic checkpoints may include but are not limited to the following:
    - a. Walk-through and/or hand-held metal detectors, cell towers and/or hand-held cell phone detectors, and Advanced Imaging Technology;
    - b. Searches of persons, clothing and other personal items;
    - c. Ion scanning devices;
    - d. Drug interdiction and detection dogs; and
    - e. Any other electronic or advanced technological devices obtained and authorized by the Department.
  2. It is important for individuals to realize personal clothing choices containing metal (for example, snaps, buttons, buckles, under wires or support materials) may cause the electronic detectors to alarm.
  3. No person, unless specifically exempted, will be allowed entry into any Arkansas Department of Correction facility without being able to clear the security screening utilized by that facility.
  4. Failure to fully cooperate and comply with all entry procedures, including the verbal instructions of entry personnel by an employee will be subject to appropriate disciplinary action, up to and including termination of employment. Failure to fully cooperate and comply with all entry procedures, including the verbal instructions of entry personnel, by visitors will result in such visitor's indefinite suspension from the inmate's visitation and phone lists.

5. Any person entering ADC property is subject to having their vehicle searched at any time, including entry and exit of the property.
6. Individuals, as well as packages and other non-vehicular items entering and leaving the facility, may be searched by visual and physical searches including electronic methods of inspection, inspections/searches by canine teams including drug dogs, and any of the other electronic or advanced technologies obtained and authorized by the Department for use in searches.
7. The following WARNING shall be posted in a prominent location in the entry of each unit and facility, to include the sally port. The terms of this WARNING are deemed to be a part of this Administrative Directive and all persons entering, attempting to enter, or presenting himself or herself for entry to a unit or facility shall be subject to this WARNING.

**WARNING:** This facility uses a variety of electronic scanning devices to detect the presence of contraband. The detection, interception and confiscation of contraband is essential to provide for the security and good order of the institution and is required to protect the public, staff and inmates. All persons must realize that personal clothing choices containing metal (for example, snaps, buttons, buckles, under wires or support materials) may cause the electronic detectors to alarm.

Any visitor unable to successfully clear all of the security checkpoints will be **denied entry** and will be **suspended from the approved visitation list**.

Contractual agent visitors unable to successfully clear all security checkpoints will be **denied entry** and may be **barred from all ADC facilities**.

A staff member unable to clear all of the security checkpoints after following all entry procedures as directed by entry staff will be denied entry and **will be subject to disciplinary action, including termination, which in this case is termination for insubordination**. Staff members will not be allowed to voluntarily end the attempt to clear security checkpoints and return at a later time. Any staff member attempting to withdraw will be subject to disciplinary action, which in this case is **termination for insubordination**.

All vehicles entering ADC property are subject to search at any time.

## VI. ENTRY PROCEDURES FOR UNITS OR FACILITIES WITH X-RAY, METAL DETECTORS, ION SCANNING, ADVANCED IMAGING TECHNOLOGY, AND/OR CELL TOWERS

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**1. STEP ONE: X-ray of personal property:**

- a. Upon entry into the Entrance Building a person shall remove and place all items from pockets and/or person into the designated container. This includes, but is not limited to, jackets, coats, shoes, belts, food, jewelry, money, and any other item as directed by entry personnel.
- b. The container will be placed in the X-ray machine for scanning.
- c. All articles will be scanned utilizing the X-ray machine and searched by the Screening Officer to ensure there is no contraband /or unauthorized articles entering the facility. Any contraband discovered at this step will be confiscated and the individual will not be allowed access to the facility without the approval of the Warden or designee.
- d. Although it is essential that all searches are thorough and systematic, it is equally important that no damage, loss, or abuse occurs to any personal property. Any such loss or damage that is determined to be through neglect may result in disciplinary action against the negligent employee(s), and such employee may be liable for the cost of replacement of such items. Any item seized as contraband shall be properly documented.

**2. STEP TWO: Walk-through Metal Detector.** When instructed by the Screening Officer the person will enter the Walk-through Metal Detector. If cleared by the Screening Officer the individual will proceed to the Pat Search area. However, if an alarm activates on the Walk-through Metal Detector the person will step back and remove any other metallic objects. A person will only be allowed three (3) attempts to successfully clear the Walk-through Metal Detector. If unsuccessful after the third and final attempt, the Warden or designee will be contacted. Then the person will be asked to submit to a Pat Search and a Cell Phone Tower screening. If the person fails to clear either screenings, proper documentation will be prepared using a 005. A visitor will then be given an opportunity by the Warden or designee to submit to a Strip Search. An employee may be required to submit to a Strip Search.**3. STEP THREE: Advanced Imaging Scanner.** When instructed by the Screening Officer, the person will walk into the Image Screening Unit, stand in the designated area and follow the instructions of the Screening Officer. Any anomalies identified by the Image Screening Unit will result in a search by staff. Any items discovered on the person being screened will be removed by that person and handed to the Screening Officer for examination. If the item is contraband it will be confiscated and the Warden or designee will be contacted. The person will then be required to be screened again. If a clear image is presented, the person will continue to the Pat Search area. If a clear image is not presented, the person will be searched again in the area containing the anomaly to confirm whether there is anything present. The area

will be searched first by a Pat Search, and if the area cannot be determined to be clear of any contraband, the Warden or designee will ask a visitor to submit to a Strip Search. An employee may be required to submit to a Strip Search.

4. **STEP FOUR: Pat Search.** All persons entering the facility will submit to a Pat Search. If no contraband is found during the Pat Search the person will be allowed to proceed to the next entrance screening step. If contraband is located or detected by the Searching Officer, the Warden or designee must be immediately contacted and the person will not be allowed to enter the facility without further screening which may include a Strip Search. The person may also be detained for a determinable amount of time dependent upon the decision of the Warden or designee.
5. **STEP FIVE: Cell Phone Tower.** When instructed by the Screening Officer, the person will move to the Cell Phone Tower's designated box area. He or she will be required to turn or rotate their body a full 360 degree circle while remaining in the designated box. The Cell Phone Tower utilizes an alarm system that works in conjunction with a light system in detecting the presence of contraband cell phones.

**"Green Light"** designates the individual is cleared for entry. He or she will be allowed to retrieve their personal property, log in and enter the building.

**"Yellow Light"** designates caution because some metal is present, but not necessarily a cell phone. Staff will attempt to locate the metal using a hand-held metal detector. Once located, the item(s) will be removed.

**"Red Light and/or Auditory Alarm"** designates a "POSITIVE" alert for the presence of a cell phone and/or cell phone components. Staff will attempt to locate the metal using a hand-held metal detector; once located, the item(s) will be removed.

**Note:** Should a yellow light, red light, and/or auditory alarm appear/sound, the person will step out of the designated box, re-check and remove any relevant items and return to the designated box for another screening. Upon showing of a "Green Light", he or she will be allowed to retrieve their personal property, log in and enter the building. If a "Red Light" or "Yellow Light" is indicated, the Warden or designee will be contacted. After the additional screening, the results of failing to clear the Cell Tower will be documented with a 005. A visitor will be given an opportunity by the Warden or designee to submit to a strip search. An employee may be required to submit to a Strip Search.

6. **STEP SIX: Strip Search.** If the visitor is requested to submit to Strip Search and agrees, he or she will be escorted to a private area by a person of the same gender, who will perform the search. An employee may be required to

submit to a Strip Search. All Strip Searches shall be conducted in an area separate and private from inmates and other staff, if possible, and in such a way as to ensure tact, privacy, and a minimum of embarrassment. If contraband is discovered, it will be taken by security staff and the person will be allowed to dress. Established procedures will be followed in dealing with the person and the contraband. If no contraband is found, the individual will be allowed to dress and proceed. If a visitor refuses the Strip Search, he/she will be denied entry and suspended from the inmate's visitation and phone list. If an employee refuses a request or directive to submit to a Strip Search, or attempts to withdraw from the entry procedure, he/she will be subject to disciplinary action, up to and including termination. Strip Searches may be requested only when **reasonable suspicion** exists that the visitor is attempting to bring contraband into the facility. Strip Searches of visitors will not be conducted indiscriminately and must be authorized by the Warden/Center Supervisor or, in their absence, the Deputy Warden or appropriate Deputy Director, or Director. Visitors under the age of eighteen will not be subjected to a Strip Search without the consent of the visitor's parent or guardian.

## VII. SPECIAL INSTRUCTIONS

**Medical Restrictions:** Bypassing any security point due to medical restriction must be authorized by the Warden or designee.

- A. Persons with Internal Medical Devices such as a pacemaker or a defibrillator will notify the Screening Officer immediately upon entry. That person must provide a recent signed statement from a physician in good standing. The person will be scanned by the Advanced Imaging Scanner, if available.
- B. All forms of electronic scanning, Metal Detector, Cell Tower and Imaging Technology, may be used on pregnant females. In the event a pregnant person (employee or visitor) presents a recent signed statement in advance of seeking entry into the facility from a physician in good standing that the person cannot be screened by any of the electronic scanning equipment: metal detector, cell tower or advanced imaging technology, the person may be subjected to a Pat Search, or a Strip Search.
- C. Any persons with valid and approved medical excuses will be searched by means that have been identified and authorized by the Unit Warden or designee, based on their provided medical information. This may be any combination of the search procedures identified in this policy. If no contraband is found the person will be allowed to enter into the facility and proceed. If contraband is found, the person will be detained and the Warden and/or designee will be immediately advised.



- D. A list of all excused employees will be kept in a separate file within the – Warden’s office. Their medical statements will be kept in their medical file in the Human Resources Office as provided by policy.

### **VIII. CRIMINAL CHARGES**

The introduction of contraband is grounds for arrest. Arkansas Department of Correction Institutional Correctional Peace Officers are authorized to make an arrest where probable cause exists that a criminal offense has been committed.

### **IX. ENTRY PROCEDURES FOR INMATES**

Inmates entering the Sally Port search area are subject to and will submit to any or all of the following searches:

1. Pat Search
2. Strip Search
3. Metal Detector screening
4. Cell Phone Detection Tower screening
5. Advanced Imaging Technology
6. Body Cavity Search, see AD 11-65

**NO INMATE WILL BE ALLOWED TO ENTER THE BUILDING WITHOUT SATISFACTORILY COMPLETING EACH STEP.**

## **Frequently Asked Questions for the Adani CONPASS**

**Q: Is the Adani CONPASS Scan safe?**

A: Yes. The exposure received is less than the average amount of background radiation that a person receives standing in the sun for about 1 hour.

**Q: How does a CONPASS Scan compare to the radiation that I receive during a commercial flight?**

A: Every 4 minutes during a commercial flight equals 1 CONPASS Scan.

**Q: How long does the CONPASS Scan take?**

A: Less than 8 seconds.

**Q: Will the CONPASS Scan violate any of my privacy concerns?**

A: No. The CONPASS System does not use surface rendering imaging technology or software. There are no soft tissue images created by the CONPASS System eliminating privacy concerns.

**Q: Will being scanned on the CONPASS System affect my pacemaker?**

A: No.

**Q: Do I need to remove my shoes, belt, jewelry or any outer apparel during a CONPASS Scan?**

A: No.

**Q: How many CONPASS Scans am I allowed to have in 1 year?**

A: 4,000. More than 10 per day! Federal Regulations regard this imaging technology as an NID (Negligible Individual Dose) procedure.

**Q: How does the CONPASS Scan compare to a chest x-ray?**

A: One chest x-ray is equivalent to 400 CONPASS Scans.



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## ADMINISTRATIVE DIRECTIVE

**SUBJECT: Unit Entry Procedures for the Control of Contraband**

**NUMBER: 19-25**

**SUPERSEDES: 14-44**

**APPLICABILITY: All Employees, Visitors, and Inmates of the  
Arkansas Department of Correction**

**REFERENCE: AR 401 Searches for and Control of Contraband; PAGE 1 of 10  
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AR 865 Offender Visitation**

**APPROVED: Original Signed by Dexter Payne**

**EFFECTIVE DATE: 9/17/2019**

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Correctional Peace Officers are authorized to make an arrest where **probable cause** exists that a criminal offense has been committed.

## II. **EXPLANATION:**

The control of contraband within a correctional environment is necessary to provide a safe, secure environment for inmates, employees, and visitors. The detection, interception and confiscation of contraband is essential to provide security and good order in the institution and is required to protect the public, staff and inmates.

## III. **APPLICABILITY**

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Factors for determining Reasonable Suspicion may include but are not limited to:

- (1) Demeanor of the person ;
- (2) Gait and manner of the person;
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- (4) Manner of dress;
- (5) Apparent effort to avoid identification or confrontation by officials;
- (6) The time of day or night the person is observed;
- (7) Information obtained from monitored conversation;
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- (10) The results of the use of screening devices (see Definitions J,K,L,M,N below) with respect to the person and
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- I. Probable Cause: A level of reasonable belief based on facts that can be articulated and would warrant a person of reasonable caution to believe that a criminal offense has been committed.

- J. Metal Detector: An electronic device used for detecting the presence of metallic objects.

- K. Cell Tower: An electronic device used to detect ferrous metals used in production of electronic items such as cell phones.

- L. Advanced Imaging Technology: A device used to safely screen an individual for both metallic and non-metallic contraband that may be concealed under clothing or within the body.

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    - b. Searches of persons, clothing and other personal items;
    - c. Ion scanning devices;
    - d. Drug interdiction and detection dogs; and
    - e. Any other electronic or advanced technological devices obtained and authorized by the Department.
  2. It is important for individuals to realize personal clothing choices containing metal (for example, snaps, buttons, buckles, under wires or support materials) may cause the electronic detectors to alarm.
  3. No person, unless specifically exempted, will be allowed entry into any Arkansas Department of Correction facility without being able to clear the security screening utilized by that facility.
  4. Failure to fully cooperate and comply with all entry procedures, including the verbal instructions of entry personnel by an employee will be subject to appropriate disciplinary action, up to and including termination of employment. Failure to fully cooperate and comply with all entry procedures, including the verbal instructions of entry personnel, by visitors will result in such visitor's indefinite suspension from the inmate's visitation and phone lists.

5. Any person entering ADC property is subject to having their vehicle searched at any time, including entry and exit of the property.
6. Individuals, as well as packages and other non-vehicular items entering and leaving the facility, may be searched by visual and physical searches including electronic methods of inspection, inspections/searches by canine teams including drug dogs, and any of the other electronic or advanced technologies obtained and authorized by the Department for use in searches.
7. The following WARNING shall be posted in a prominent location in the entry of each unit and facility, to include the sally port. The terms of this WARNING are deemed to be a part of this Administrative Directive and all persons entering, attempting to enter, or presenting himself or herself for entry to a unit or facility shall be subject to this WARNING.

**WARNING:** This facility uses a variety of electronic scanning devices to detect the presence of contraband. The detection, interception and confiscation of contraband is essential to provide for the security and good order of the institution and is required to protect the public, staff and inmates. All persons must realize that personal clothing choices containing metal (for example, snaps, buttons, buckles, under wires or support materials) may cause the electronic detectors to alarm.

Any visitor unable to successfully clear all of the security checkpoints will be **denied entry** and will be **suspended from the approved visitation list**.

Contractual agent visitors unable to successfully clear all security checkpoints will be **denied entry** and may be **barred from all ADC facilities**.

A staff member unable to clear all of the security checkpoints after following all entry procedures as directed by entry staff will be denied entry and **will be subject to disciplinary action, including termination**. Staff members will not be allowed to voluntarily end the attempt to clear security checkpoints and return at a later time. Any staff member attempting to withdraw will be subject to disciplinary action, which in this case is **termination for insubordination**.

All vehicles entering ADC property are subject to search at any time.

## **VI. ENTRY PROCEDURES FOR UNITS OR FACILITIES WITH X-RAY, METAL DETECTORS, ION SCANNING, ADVANCED IMAGING TECHNOLOGY, AND/OR CELL TOWERS**

### **1. STEP ONE: X-ray of personal property:**

- a. Upon entry into the Entrance Building a person shall remove and place all items from pockets and/or person into the designated container. This includes, but is not limited to, jackets, coats, shoes, belts, food, jewelry, money, and any other item as directed by entry personnel.
  - b. The container will be placed in the X-ray machine for scanning.
  - c. All articles will be scanned utilizing the X-ray machine and searched by the Screening Officer to ensure there is no contraband /or unauthorized articles entering the facility. Any contraband discovered at this step will be confiscated and the individual will not be allowed access to the facility without the approval of the Warden or designee.
  - d. Although it is essential that all searches are thorough and systematic, it is equally important that no damage, loss, or abuse occurs to any personal property. Any such loss or damage that is determined to be through neglect may result in disciplinary action against the negligent employee(s), and such employee may be liable for the cost of replacement of such items. Any item seized as contraband shall be properly documented.
2. **STEP TWO: Walk-through Metal Detector.** When instructed by the Screening Officer the person will enter the Walk-through Metal Detector. If cleared by the Screening Officer the individual will proceed to the Pat Search area. However, if an alarm activates on the Walk-through Metal Detector the person will step back and remove any other metallic objects. A person will only be allowed three (3) attempts to successfully clear the Walk-through Metal Detector. If unsuccessful after the third and final attempt, the Warden or designee will be contacted. Then the person will be asked to submit to a Pat Search and a Cell Phone Tower screening. If the person fails to clear either screenings, proper documentation will be prepared using a 005. A visitor will then be given an opportunity by the Warden or designee to submit to a Strip Search. An employee may be required to submit to a Strip Search.
3. **STEP THREE: Advanced Imaging Scanner.** When instructed by the Screening Officer, the person will walk into the Image Screening Unit, stand in the designated area and follow the instructions of the Screening Officer. Any anomalies identified by the Image Screening Unit will result in a search by staff. Any items discovered on the person being screened will be removed by that person and handed to the Screening Officer for examination. If the item is contraband it will be confiscated and the Warden or designee will be contacted. The person will then be required to be screened again. If a clear image is presented, the person will continue to the Pat Search area. If a clear image is not presented, the person will be searched again in the area containing the anomaly to confirm whether there is anything present. The area will be searched first by a Pat Search, and if the area cannot be determined to



be clear of any contraband, the Warden or designee will ask a visitor to submit to a Strip Search. An employee may be required to submit to a Strip Search.

4. **STEP FOUR: Pat Search.** All persons entering the facility will submit to a Pat Search. If no contraband is found during the Pat Search the person will be allowed to proceed to the next entrance screening step. If contraband is located or detected by the Searching Officer, the Warden or designee must be immediately contacted and the person will not be allowed to enter the facility without further screening which may include a Strip Search. The person may also be detained for a determinable amount of time dependent upon the decision of the Warden or designee.
5. **STEP FIVE: Cell Phone Tower.** When instructed by the Screening Officer, the person will move to the Cell Phone Tower's designated box area. He or she will be required to turn or rotate their body a full 360 degree circle while remaining in the designated box. The Cell Phone Tower utilizes an alarm system that works in conjunction with a light system in detecting the presence of contraband cell phones.

**"Green Light"** designates the individual is cleared for entry. He or she will be allowed to retrieve their personal property, log in and enter the building.

**"Yellow Light"** designates caution because some metal is present, but not necessarily a cell phone. Staff will attempt to locate the metal using a hand-held metal detector. Once located, the item(s) will be removed.

**"Red Light and/or Auditory Alarm"** designates a "POSITIVE" alert for the presence of a cell phone and/or cell phone components. Staff will attempt to locate the metal using a hand-held metal detector; once located, the item(s) will be removed.

**Note:** Should a yellow light, red light, and/or auditory alarm appear/sound, the person will step out of the designated box, re-check and remove any relevant items and return to the designated box for another screening. Upon showing of a "Green Light", he or she will be allowed to retrieve their personal property, log in and enter the building. If a "Red Light" or "Yellow Light" is indicated, the Warden or designee will be contacted. After the additional screening, the results of failing to clear the Cell Tower will be documented with a 005. A visitor will be given an opportunity by the Warden or designee to submit to a strip search. An employee may be required to submit to a Strip Search.

6. **STEP SIX: Strip Search.** If the visitor is requested to submit to Strip Search and agrees, he or she will be escorted to a private area by a person of the same gender, who will perform the search. An employee may be required to submit to a Strip Search. All Strip Searches shall be conducted in an area

separate and private from inmates and other staff, if possible, and in such a way as to ensure tact, privacy, and a minimum of embarrassment. If contraband is discovered, it will be taken by security staff and the person will be allowed to dress. Established procedures will be followed in dealing with the person and the contraband. If no contraband is found, the individual will be allowed to dress and proceed. If a visitor refuses the Strip Search, he/she will be denied entry and suspended from the inmate's visitation and phone list. If an employee refuses a request or directive to submit to a Strip Search, or attempts to withdraw from the entry procedure, he/she will be subject to disciplinary action, up to and including termination. Strip Searches may be requested only when **reasonable suspicion** exists that the visitor is attempting to bring contraband into the facility. Strip Searches of visitors will not be conducted indiscriminately and must be authorized by the Warden/Center Supervisor or, in their absence, the Deputy Warden or appropriate Deputy Director, or Director. Visitors under the age of eighteen will not be subjected to a Strip Search without the consent of the visitor's parent or guardian.

## VII. SPECIAL INSTRUCTIONS

**Medical Restrictions:** Bypassing any security point due to medical restriction must be authorized by the Warden or designee.

- A. Persons with Internal Medical Devices such as a pacemaker or a defibrillator will notify the Screening Officer immediately upon entry. That person must provide a recent signed statement from a physician in good standing. The person will be scanned by the Advanced Imaging Scanner, if available.
- B. All forms of electronic scanning, Metal Detector, Cell Tower and Imaging Technology, may be used on pregnant females. In the event a pregnant person (employee or visitor) presents a recent signed statement in advance of seeking entry into the facility from a physician in good standing that the person cannot be screened by any of the electronic scanning equipment: metal detector, cell tower or advanced imaging technology, the person may be subjected to a Pat Search, or a Strip Search.
- C. Any persons with valid and approved medical excuses will be searched by means that have been identified and authorized by the Unit Warden or designee, based on their provided medical information. This may be any combination of the search procedures identified in this policy. If no contraband is found the person will be allowed to enter into the facility and proceed. If contraband is found, the person will be detained and the Warden and/or designee will be immediately advised.

- D. A list of all excused employees will be kept in a separate file within the – Warden’s office. Their medical statements will be kept in their medical file in the Human Resources Office as provided by policy.

### **VIII. CRIMINAL CHARGES**

The introduction of contraband is grounds for arrest. Arkansas Department of Correction Institutional Correctional Peace Officers are authorized to make an arrest where probable cause exists that a criminal offense has been committed.

### **IX. ENTRY PROCEDURES FOR INMATES**

Inmates entering the Sally Port search area are subject to and will submit to any or all of the following searches:

1. Pat Search
2. Strip Search
3. Metal Detector screening
4. Cell Phone Detection Tower screening
5. Advanced Imaging Technology
6. Body Cavity Search, see AD 11-65

**NO INMATE WILL BE ALLOWED TO ENTER THE BUILDING WITHOUT SATISFACTORILY COMPLETING EACH STEP.**

## **Frequently Asked Questions for the Adani CONPASS**

**Q: Is the Adani CONPASS Scan safe?**

A: Yes. The exposure received is less than the average amount of background radiation that a person receives standing in the sun for about 1 hour.

**Q: How does a CONPASS Scan compare to the radiation that I receive during a commercial flight?**

A: Every 4 minutes during a commercial flight equals 1 CONPASS Scan.

**Q: How long does the CONPASS Scan take?**

A: Less than 8 seconds.

**Q: Will the CONPASS Scan violate any of my privacy concerns?**

A: No. The CONPASS System does not use surface rendering imaging technology or software. There are no soft tissue images created by the CONPASS System eliminating privacy concerns.

**Q: Will being scanned on the CONPASS System affect my pacemaker?**

A: No.

**Q: Do I need to remove my shoes, belt, jewelry or any outer apparel during a CONPASS Scan?**

A: No.

**Q: How many CONPASS Scans am I allowed to have in 1 year?**

A: 4,000. More than 10 per day! Federal Regulations regard this imaging technology as an NID (Negligible Individual Dose) procedure.

**Q: How does the CONPASS Scan compare to a chest x-ray?**

A: One chest x-ray is equivalent to 400 CONPASS Scans.