



POLICY STATEMENT
Commonwealth of Pennsylvania • Department of Corrections

Policy Subject: Criminal Violations		Policy Number: DC-ADM 004
Date of Issue: June 27, 2022	Authority: Signature on File George M. Little	Effective Date: July 5, 2022

I. AUTHORITY

The Authority of the Secretary of Corrections to direct the operation of the Department of Corrections is established by Sections 201, 206, 506, and 901-B of the Administrative Code of 1929, 71 P.S. §§61, 66, 186, and 310-1, Act of April 9, 1929, P.L. 177, No. 175, as amended.

II. APPLICABILITY

This policy is applicable to all facilities operated under the jurisdiction of, or conducting business with the Department of Corrections.

III. POLICY

It is the policy of the Department to ensure that all alleged criminal acts by inmates and employees are processed, investigated, and disposed of, by prosecution and/or administrative action.¹

IV. PROCEDURES

All applicable procedures are contained in the procedures manual that accompanies this policy document.

¹ 5-ACI-3C-07

V. SUSPENSION DURING AN EMERGENCY

In an emergency or extended disruption of normal facility operation, the Secretary/designee may suspend any provision or section of this policy for a specific period.

VI. RIGHTS UNDER THIS POLICY

This policy does not create rights in any person nor should it be interpreted or applied in such a manner as to abridge the rights of any individual. This policy should be interpreted to have sufficient flexibility to be consistent with law and to permit the accomplishment of the purpose(s) of the policies of the Department of Corrections.

VII. RELEASE OF INFORMATION AND DISSEMINATION OF POLICY

A. Release of Information

1. Policy

This policy document is public information and may be released upon request.

2. Confidential Procedures (if applicable)

Confidential procedures for this document, if any, are not public information and may not be released in its entirety or in part, without the approval of the Secretary of Corrections/designee. Confidential procedures may be released to any Department of Corrections employee on an as needed basis.

B. Distribution of Policy

1. General Distribution

The Department of Corrections policy and procedures shall be distributed to the members of the Central Office Executive Staff, all Facility Managers, and Community Corrections Regional Directors on a routine basis. Distribution of confidential procedures to other individuals and/or agencies is subject to the approval of the Secretary of Corrections/designee.

2. Distribution to Staff

It is the responsibility of those individuals receiving policies and procedures, as indicated in the "General Distribution" section above, to ensure that each employee expected or required to perform the necessary procedures/duties is issued a copy of the policy and procedures either in hard copy or via email, whichever is most appropriate.

VIII. SUPERSEDED POLICY AND CROSS REFERENCE

A. Superseded Policy

1. Department Policy

DC-ADM 004, Criminal Violations Policy issued June 4, 1999, by former Secretary Jeffrey A. Beard, Ph.D.

2. Facility Policy and Procedures

This document supersedes all facility policy and procedures on this subject.

B. Cross Reference(s)

1. Administrative Manuals

- a. DC-ADM 008, Prison Rape Elimination Act
- b. DC-ADM 801, Inmate Discipline
- c. DC-ADM 802, Administrative Custody Procedures

2. ACA Standards

- a. Administration of Correctional Agencies: None
- b. Adult Correctional Institutions: 5-ACI-3C-07
- c. Adult Probation and Parole Field Services: 4-APPFS-3G-04
- d. Adult Community Residential Services: None
- e. Correctional Training Academies: None

3. PREA Standards 28 Code of Federal Regulations (C.F.R.)

115.22, 115.64, 115.68, 115.78



PROCEDURES MANUAL
Commonwealth of Pennsylvania • Department of Corrections

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**Signature on File
George M. Little**

Effective Date:

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Release of Information:

Policy Document: This policy document is public information and may be released upon request.

Procedures Manual: The procedures manual for this policy may be released in its entirety or in part, with the prior approval of the Secretary/designee. Unless prior approval of the Secretary/designee has been obtained, this manual or parts thereof may be released to any Department employee on an as needed basis only.

DC-ADM 004, Criminal Violations Procedures Manual
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Section 1 – Criminal Complaints

A. Criminal Complaints by Inmates

1. Each inmate shall be informed, upon reception, and otherwise by notice in the Inmate Handbook of his/her right to make a criminal complaint for any criminal act, threatened or committed against him/her by anyone.
2. Any employee receiving an inmate complaint of the type contemplated by this directive shall immediately notify the senior officer in charge of the facility concerning the nature of the complaint, and confirm the same in writing.
3. **All reports of sexual abuse or sexual harassment shall be reported and referred for criminal and/or administrative investigation in accordance with those procedures outlined in Department policy DC-ADM 008, “Prison Rape Elimination Act (PREA).” (28 C.F.R. §115.22[a])**
4. No inmate shall be disciplined for making a good faith criminal complaint. The inmate’s custody status shall not be affected unless the inmate requests placement in self-confinement for protective custody or a senior officer determines, after preliminary evaluation, that self-confinement is necessary to protect the inmate or maintain the security of the facility pending investigation. When it is determined that protective measures are necessary, the Shift Commander shall take appropriate action **in accordance with Department policies DC-ADM 802, “Administrative Custody Procedures,” and DC-ADM 008. (28 C.F.R. §115.68)**
5. Any inmate who makes a criminal complaint which, upon investigation, is determined to be false, may be prosecuted and shall be subject to discipline. **(28 C.F.R. §115.78[f])**
6. Inmate contact with District Attorney
 - a. If after investigation of an inmate complaint by the Pennsylvania State Police (PSP) or facility authorities, it is determined that a prosecution will not be instituted by either the PSP or the facility authorities, the inmate-complainant shall be notified in accordance with established facility procedures of (1) the determination not to prosecute; (2) the reasons for the determination; and (3) of his/her right to communicate with the District Attorney to investigate the complaint further.
 - b. Whenever an inmate exercises his/her right to communicate with the District Attorney or PSP, the facility shall promptly forward the communication. All information developed by the facility shall be available if requested by the District Attorney. The District Attorney shall be notified of the availability of PSP investigative assistance, but copies of any PSP reports in possession of the facility or the Department shall not be transmitted to the District Attorney. Requests for PSP reports will be referred to the PSP.

B. Criminal Complaints Against Inmates

1. Whenever the Facility Manager, Deputy Superintendent for Facilities Management (DSFM)/designee receives sufficient information, regardless of the source, alleging that an inmate has committed a crime, they shall ensure that the disciplinary process in accordance with Department policy **DC-ADM 801, “Inmate Discipline”** has been initiated.

When the alleged criminal behavior involves alleged sexual abuse or sexual harassment, disciplinary procedures shall not be initiated until the incident is investigated and the investigation is approved by the Bureau of Investigations and Intelligence (BII) in accordance with Department policy DC-ADM 008.

2. Notification of PSP or **BII**
 - a. A record of requests to the PSP or **BII** shall be maintained.
 - b. In all cases where PSP or **BII** assistance is requested for investigation purposes, a facility representative shall be designated to act as liaison to assist the investigating police officer. The designation may be made by specific order or by standing order in accordance with established Department policy.
 - c. Pending arrival of the PSP or **BII**, the liaison may place all suspects and inmate witnesses in such custody, protective or otherwise, as may be necessary to maintain security.
 - d. Within **seven working** days of confinement, an administrative hearing will be held to determine the need for continued segregation, unless a misconduct hearing is held within that period.
 - e. At the completion of the investigation, the inmate must be:
 - (1) charged with a misconduct;
 - (2) released back to his/her prior custody status;
 - (3) placed in Administrative Custody pending transfer to another facility; or
 - (4) changed to another custody status by the Program Review Committee (PRC).
 - f. If the location of the offense and its condition may be relevant to the investigation, steps shall be taken to secure the area.
 - g. The Intelligence Captain/Shift Commander/designee, shall identify and preserve all physical property which may be relevant to the investigation (weapons, clothing of suspect and victim, etc.) to ensure its availability for use as evidence in accordance

with established procedures **including evidence preservation procedures outlined in Department policy DC-ADM 008. (28 C.F.R. §115.64)** Any evidence or property seized concerning an incident and which may be used in a criminal proceeding will be subject to preservation and chain-of-evidence procedures established in cooperation with local law enforcement agencies.

- h. Require written reports of all facility personnel who do or may have any knowledge or information concerning the offense that may be relevant. These reports shall be required prior to the departure from the facility of such personnel at the end of their tour of duty.
- i. Arrival of the PSP or **BII** at the facility
 - (1) The Facility Manager/designee and liaison shall brief the investigator on the situation, as it appears to exist, and inform him/her of all measures taken by the facility with reference thereto.
 - (2) During the investigation the PSP or **BII** will be given a suitable room in order to conduct their investigation. The liaison shall make available such personnel, inmates, records, and other information as the investigator may request.
 - (3) Ordinarily, the Facility Manager will not participate actively in the investigation, but will be kept informed of the progress of the investigation by the liaison. Progress and status of the investigation may be requested from the PSP or **BII**.
 - (4) Upon request, the liaison will make the necessary arrangements to ensure the presence of personnel or inmates at any proceeding before an issuing authority or court.
 - (5) If the PSP or **BII** determines that no prosecution shall be instituted, the Facility Manager may request a copy of their report(s).
 - (6) If the Department wants to pursue other prosecution means, the decisions should be taken under advisement with the Secretary and the Office of Chief Counsel.

C. Criminal Complaints Against Staff¹

- 1. A record of requests to the PSP or **BII** shall be maintained.
- 2. In all cases where PSP or **BII** assistance is requested for investigation purposes, a facility representative shall be designated to act as liaison to assist the investigating police officer. The designation may be made by specific order or by standing order in accordance with established facility procedure.

¹ 4-APPFS-3G-04

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Section 1 – Criminal Complaints

3. Pending arrival of the PSP or **BII**, the liaison may detain all suspects and witnesses, as necessary to maintain security.
4. **Once a criminal matter has been uncovered by facility staff, all interviews shall cease and the information shall be referred to BII or the PSP so they can proceed with a criminal investigation.**
5. If the location of the offense and its condition may be relevant to the investigation, the liaison shall take such steps as are necessary to secure the area in accordance with established procedures **including evidence preservation procedures outlined in Department policy DC-ADM 008. (28 C.F.R. §115.64)**
6. The Intelligence Captain/Shift Commander/designee shall identify and preserve all physical property which may be relevant to the investigation (weapons, clothing of suspect and victim, etc.) to ensure its availability for use as evidence in accordance with established procedures. Any evidence or property seized concerning an incident and that may be used in a criminal proceeding will be subject to preservation and chain-of-evidence procedures established in cooperation with local law enforcement agencies.
7. Require written reports of all facility personnel who do or may have any knowledge or information concerning the offense that may be relevant. These reports shall be required prior to the departure from the facility, at the end of their tour of duty. When in doubt as to whether a particular individual has such knowledge or information, the liaison will resolve said doubt in favor of requiring a written report. Exceptions to this paragraph may only be made by the Officer in Charge who must state briefly, in writing, the reason for such exception.
8. Upon arrival of the PSP or **BII** at the facility
 - a. The Facility Manager/designee and liaison shall brief the investigator on the situation, as it appears to exist, and inform him/her of all measures taken by the facility with reference thereto.
 - b. During the investigation, the investigator will be given a suitable room in order to conduct their investigation. The liaison shall make available such personnel, inmates, records, and other information as the investigator may request.
 - c. The Facility Manager/designee will **be advised when the criminal investigation is completed and whether criminal charges will be filed.**
 - d. Upon request, the liaison will make the necessary arrangements to ensure the presence of personnel or inmates at any proceeding before an issuing authority or court.
 - e. **The facility cannot use the information that was collected during a BII criminal investigation. Providing a copy of a criminal report to the facility potentially could corrupt the administrative investigation. There must be a “wall” between**

criminal and administrative investigations to avoid the potential for comingling the interviews.

9. If the Department wants to pursue other prosecution means, the decision must be taken under advisement with the Secretary and the Office of Chief Counsel.

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Glossary of Terms

Administrative Custody – A status of confinement for non-disciplinary reasons which provides closer supervision, control, and protection than is provided in general population.

Department – The Pennsylvania Department of Corrections.

Liaison – Communication between different units or groups of an organization.

Program Review Committee (PRC) – A committee consisting of three staff members that conducts Administrative Custody Hearings, periodic reviews, makes decisions regarding continued confinement in the Restricted Housing Unit (RHU) and/or **other applicable Level 5 specialized housing units**, and hears all first level appeals of misconducts. The committee shall consist of one staff member from each of the following classifications: Deputy Superintendent, who shall serve as the chairperson, Inmate Program Manager, Unit Manager, School Principal, Drug and Alcohol Treatment Specialist Supervisor, or Inmate Records Office Supervisor and a Commissioned Officer. The Facility Manager may designate other staff as committee members, however, if such designations are made, they must be in writing and the Facility Manager must maintain a list of all designees. Whenever a PRC is convened, at least one member of the committee must be a staff member who is not directly involved in the administration of the RHU and/or **other applicable Level 5 specialized housing units**, in which the inmate is currently housed.