

# INS DETENTION STANDARD

## DISCIPLINARY POLICY

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### I. POLICY

To provide a safe and orderly living environment, facility authorities will impose disciplinary sanctions on any detainee whose behavior is not in compliance with facility rules and procedures.

### II. APPLICABILITY

The standards provided in this Detention Standard shall apply to the following facilities housing INS detainees:

1. Service Processing Centers (SPCs);
2. Contract Detention Facilities (CDFs); and
3. State or local government facilities used by INS through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours; referred to as "IGSA facilities."

Within the document additional implementing procedures are identified for SPCs and CDFs. Those procedures appear in italics. IGSA facilities may find such procedures useful as guidelines. IGSAs may adopt, adapt or establish alternatives to, the procedures specified for SPCs/CDFs, provided they meet or exceed the objective represented by each standard.

See the separate "Definitions" Standard for the meaning of certain terms used in this document.

### III. STANDARDS AND PROCEDURES

#### A. Guidelines

1. Each facility holding INS detainees in custody will have a detainee disciplinary system. This disciplinary system shall have progressive levels of reviews, appeals, procedures, and documentation procedures. The disciplinary policy and procedures shall clearly define detainee rights and responsibilities
2. Disciplinary action may not be capricious or retaliatory.
3. Staff may not impose or allow imposition of the following sanctions: corporal punishment; deviations from normal food services; deprivation of clothing, bedding, or items of personal hygiene; deprivation of correspondence privileges; or deprivation of physical exercise unless such activity creates an unsafe condition.

4. The facility shall not hold a detainee accountable for his/her conduct if a medical authority finds him/her mentally incompetent.

A mentally incompetent individual unable to appreciate the difference between appropriate and inappropriate behavior— between “right” and “wrong”—is not capable of acting in accordance with those norms. Therefore, he/she is not responsible for his/her “wrongful” actions.

Also, a person who lacks the ability to understand the nature of the disciplinary proceedings against him/her, or to assist in his/her own defense, is considered incompetent. Disciplinary proceedings against such a detainee shall be postponed until such time as the detainee is able to understand the nature of the disciplinary proceedings and to assist in his/her own defense. If the detainee’s mental status does not improve within a reasonable amount of time, the Incident Report shall “find” the detainee incompetent to assist in his/her own defense. Under that circumstance, disciplinary proceedings cannot move forward.

5. The detainee handbook or equivalent, issued to each detainee upon admittance, shall provide notice of the facility’s rules of conduct, and of the sanctions imposed for violations of the rules. Among other things, the handbook shall advise detainees of the following:

- a. The right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment;
- b. The right of freedom from discrimination based on race, religion, national origin, sex, handicap, or political beliefs;
- c. The right to pursue a grievance in accordance with written procedures (provided in the handbook);
- d. The right to correspond with persons or organizations, consistent with safety, security, and the orderly operation of the facility; and
- e. The right to due process, including the prompt resolution of a disciplinary matter (in accordance with the rules, procedures, and sanctions provided. in the handbook).

*In SPCs/CDFs, copies of the rules of conduct and disciplinary sanctions will be posted in English, Spanish, and/or other languages spoken by significant numbers of detainees, as follows:*

- a. *Disciplinary Severity Scale*
- b. *Prohibited Acts*
- c. *Sanctions*

## **B. Incident Reports**

Officers who witness a prohibited act or have reason to suspect one has been committed shall prepare and submit an incident report. All incident reports must state the facts clearly, precisely, and concisely, omitting no details that could prove significant. Reports also will identify the officer(s), the detainee(s), and all witness(es) to the incident.

INS approval is required for the incident-report forms used in CDFs and IGSA facilities.

*In SPCs/CDFs, minor transgressions will be settled informally, by mutual consent, whenever possible. If, however, the officer involved thinks an informal resolution inappropriate or unachievable, he/she shall prepare an Incident Report and Notice of Charges, forwarding it to the appropriate supervisor before the end of the assigned shift.*

*The incident report shall cite the relevant rule or standard without quoting it in its entirety. For example, for destruction of government property, the report would cite, briefly, "Code 218-Destroying Government Property."*

*If the officer observes anything unusual in the detainee's behavior or demeanor, he/she shall so note in the report. The reporting officer shall also list all staff, contract officers or detainee witnesses to the incident, and the disposition of any physical evidence (weapons, property, etc.) relating to the incident. The reporting officer will sign the report and include title, date and time the report was signed. The shift supervisor shall review all incident reports before going off duty.*

## **C. Investigations**

IGSAs shall have procedures in place to ensure that all incident reports are investigated within 24 hours of the incident.

The investigating officer shall have supervisory rank, or higher (unless prevented by personnel shortages) and shall have had no prior involvement in the incident, either as witness or officer at the scene. If an officer below supervisory rank conducts the investigation, the shift supervisor shall review his/her report(s) for accuracy and completeness, and sign them.

*In SPCs/CDFs, the officer designated to investigate the incident is responsible for completing the necessary interviews, collecting evidence, and submitting written reports.*

### ***The investigating officer shall:***

- 1. Commence the investigation within 24 hrs. of receipt of the incident report.*
- 2. Advise the detainee of the right to remain silent at every stage of the disciplinary process, and ensure he/she has a complete listing of detainee rights*
- 3. Advise the detainee that, although silence may not be used to support a finding of guilt, silence is rarely interpreted in the detainee's favor.*

4. *Provide the detainee(s) with a copy of the incident report/notice of charges at least 24 hours before the start of disciplinary proceedings.*
5. *Advise the detainee of his/her right, if applicable, to an initial hearing before the Unit Disciplinary Committee (UDC) within 24 hours of his/her notification of charges.*
6. *Terminate the investigation if the incident is under investigation elsewhere, e.g., on criminal grounds, unless and until the agency with primary jurisdiction concludes its investigation or indicates that it will not pursue the matter.*
7. *Record personal observances and other potentially material information.*
8. *Prepare a factual report of the investigation, including the location or disposition of any physical evidence.*
9. *Forward to the UDC all reports relevant to the disciplinary hearing. NOTE: policy expressly prohibits providing a copy of any such report(s) to the detainee at this stage of the disciplinary process.*

#### **Unit Disciplinary Committee (UDC)**

All facilities shall establish an intermediate level of investigation/adjudication is present to adjudicate low or moderate infractions. They shall also ensure that the detainee is afforded all the rights listed under "Detainee Rights in UDC Proceedings," below.

*In SPCs/CDFs:*

*The UDC administering unit discipline shall comprise from one to three members, at least one of whom is a supervisor.*

*The UDC shall not include the reporting officer, the investigating officer, or an officer who witnessed or was directly involved in the incident. Only if virtually every available officer witnessed or was directly involved in the incident shall an exception to this rule occur*

*The UDC will conduct hearings and, to the extent possible, informally resolve cases involving "high moderate" or "low moderate" charges, in accordance with the list of charges and related sanctions (see III., I., below). Unresolved cases and cases involving serious charges are forwarded to the Institutional Disciplinary Panel.*

***The UDC shall have authority to:***

1. *Conduct hearing and informally resolve incidents involving High Moderate or Low Moderate charges.*
2. *Consider written reports, statements, and physical evidence.*

3. *Hear pleadings on the part of the detainee.*
4. *Make findings that a detainee did or did not commit the rule violation(s) or prohibited act(s) as charged, based on the preponderance of evidence.*
5. *Impose minor sanctions "E" through "M" in accordance with the table of prohibited acts and associated sanctions (see section III.I., below).*

***The detainee in UDC proceedings shall have the right to:***

1. *Remain silent at any stage of the disciplinary process.*
2. *Due process, including a UDC hearing within 24 hours of the end of the investigation, and:*
  - a. *To attend the entire hearing (excluding committee deliberations); or*
  - b. *To waive the right to appear.*

*If security considerations prevent the detainee's attendance, the committee must document the security considerations.*

3. *Present statements and evidence in his/her own behalf.*
4. *Appeal the committee's determination through the detainee appeal process.*

***The UDC shall:***

1. *Advise the detainee of above-listed rights before the hearing.*
2. *Refer to the IDP any incident involving a serious violation, i.e., associated with an A-through-D-range sanction. This includes code violations in the "Greatest" and "High" categories (100s and 200s).*
3. *Serve the detainee with:*
  - a. *A copy of the UDC decision and sanctions imposed; or*
  - b. *Written notification of charges and hearing before the IDP.*
4. *If the detainee's case is being referred to the IDP, advise the detainee, in writing, of*
  - a. *The right to call witnesses and present evidence before the IDP; and*
  - b. *The right to a staff representative before the IDP.*

## **E. Staff Representation**

*In SPCs/CDFs, the Officer in Charge (OIC) shall, upon the detainee's request, assign a staff representative to help prepare a defense. This help will be automatically provided for illiterate detainees, detainees with limited English-language skills; detainees without means of collecting and presenting essential evidence and detainees in administrative or disciplinary segregation.*

- 1. A staff representative must be a full-time employee.*
- 2. Because of the potential conflict of interest, the OIC, members of the IDP and of the UDC initially involved in the case, eyewitnesses, the reporting and investigating officers, and anyone else with a stake in the outcome shall not act as staff representative.*
- 3. The detainee may select his/her staff representative, barring anyone identified in #2, above.*
- 4. The IDP shall arrange for the presence of the staff representative selected by the detainee. If that staff member declines or is unavailable, the detainee has three choices. He/she may select a different representative; wait for the unavailable staff member to become available (within a reasonable period); or proceed without a staff representative.*
- 5. A staff member declining to serve as a detainee's representative must state the reason on the staff representative form.*
- 6. If several officers decline, the OIC shall assign a staff member to serve as that detainee's staff representative.*
- 7. The staff representative shall be free to speak to witnesses and to present evidence in the detainee's behalf, including any mitigating circumstances.*
- 8. The IDP shall allow the staff representative enough time to speak with the detainee and interview witnesses. The standard pre-hearing preparation time will suit most cases. However, the IDP may grant a delay if required for an adequate defense.*
- 9. The IDP shall establish the reliability of information provided by a confidential informant before considering it in the disciplinary proceedings.*
- 10. The IDP may withhold the confidential informant's identity from the staff representative. While the staff representative may challenge the substance of any confidential information the IDP discloses, he/she may not question its reliability (pre-established by the IDP).*
- 11. When the detainee cannot effectively present his/her own case, the OIC shall appoint a staff representative, even if not requested by the detainee.*

## **F. Institutional Disciplinary Panel**

All facilities that house INS detainees shall have a disciplinary panel to adjudicate detainee incident reports. Only the disciplinary panel can place a detainee in disciplinary segregation.

*In SPCs and CDFs*

1. *The IDP will consist of three members, including the chairperson.*
2. *The OIC shall appoint the three members of the panel..*

*Members will be appointed by the OIC. The panel shall not include the reporting officer, the investigating officer, any member of the referring UDC, or anyone who witnessed or was directly involved in the incident. Only if virtually every available officer witnessed or was directly involved in the incident shall an exception to this rule occur*

***The IDP shall have authority to:***

1. *Conduct hearings on all charges and allegations referred by the UDC.*
2. *Call witnesses to testify.*
3. *Consider written reports, statements, physical evidence, and oral testimony.*
4. *Hear pleadings by detainee and staff representative.*
5. *Make findings that the detainee did or did not commit the rule violation(s) or prohibited act(s) as charged, based on the preponderance of evidence.*
6. *Impose sanctions as listed and authorized in each category.*

***The IDP shall:***

1. *Verify that the detainee has been advised of, and afforded, his/her rights, as provided above.*
2. *Remind the detainee of his/her right to a staff representative, providing one if requested.*
3. *Advise the detainee of his/her right to waive the hearing and admit having committed the offense.*

4. *Conduct the hearing on the first business day after receiving the UDC's referral, unless the detainee waives the 24-hour notification provision, requesting an immediate hearing. In cases where a hearing is delayed, the reason(s) must be documented (e.g., a continuing investigation of facts, their unavailability of one or more essential witnesses, etc.) and approved by the OIC. If the detainee is being held in segregation, the delay shall not exceed 72 hours, barring an emergency.*
5. *Prepare a written record of its proceedings. This record must show that the detainee was advised of his/her rights. It must also document the evidence considered by the Panel and subsequent findings; the decision and sanctions imposed, along with a brief explanation.*
6. *Forward the entire record to the OIC, who may (a) concur; (b) terminate the proceedings; or (c) impose stiffer or lesser sanctions.*
7. *Serve the detainee with written notification of the decision.*

#### **G. Postponement of Disciplinary Proceedings**

All facilities shall permit hearing postponements or continuances under certain circumstances.

*In SPCs/CDFs, circumstances justifying the postponement or continuance of a hearing might include: defense preparation, physical or mental illness, security, escape, disciplinary transfer, removal or pending criminal prosecution.*

*An uncooperative detainee may also cause a delay in the proceedings, either because of inappropriate behavior during the hearing process or a refusal to participate in a productive manner.*

#### **H. Duration of Punishment**

The duration of punishment shall be within established limits. Neither the panel recommending sanctions nor the OIC making the final decision shall impose sanctions arbitrarily, outside these limits.

1. Punishments range from the withholding of privilege(s) to segregation. Time in segregation after a hearing will generally not exceed 60 days.
2. Time served in segregation pending the outcome of the proceedings may be credited to the number of days to be spent in the segregation unit after the decision is announced.
3. The disciplinary report and accompanying documents are not placed in the file of a detainee who is found not guilty. However, the facility may retain the material in its own files for institutional uses (statistical, historical, etc.).



## **I. Disciplinary Severity Scale and Prohibited Acts**

All facilities shall have graduated scales of offenses and disciplinary consequences, as provided in this section.

*SPCs/CDFs shall adopt, without changing, the offense categories and disciplinary sanctions set forth in this section.*

*Prohibited acts are divided into four categories: "Greatest," "High," "Moderate," and "Low Moderate." The sanctions authorized for each category (see table of sanctions, below) will be imposed only if the detainee is found to have committed a prohibited act.*

- a. **"Greatest" offenses:** The IDP shall impose and execute at least one sanction in the A through E range. Additional sanctions (A through G) may be imposed and either executed or suspended, at the discretion of the panel. The IDP may impose and execute sanctions F and G only in conjunction with sanction A, B, C, D, and/or E.*
- b. **"High" offenses:** The IDP shall impose and execute at least one sanction in the A through M range. Additional sanctions (A through M) may be imposed, and, either executed or suspended, at the discretion of the panel.*
- c. **"High Moderate" offenses:** The IDP shall impose at least one sanction in the A through M range, but may suspend any or all, once imposed. Similarly, the UDC shall impose at least one sanction in the G through M range, but may suspend any or all, once imposed.*
- d. **"Low Moderate" offenses:** The IDP shall impose at least one sanction in the E through M range, but may suspend any or all, once imposed. Similarly, the UDC shall impose at least one sanction in the G through M range, but may suspend any or all, once imposed.*

## **J. Documents**

All documents relevant to the incident, subsequent investigation, hearing(s), etc., will be completed and distributed in accordance with facility procedures.

*In SPCs/CDFs, documents will be prepared and distributed as follows:*

### ***Incident Report/Notice of Charges***

*The officer shall prepare a report and submit it to the INS or CDF supervisor immediately after the incident takes place. If the incident is resolved informally, the officer will so note on the original report, which will then be forwarded to the Chief Detention Enforcement Officer or Chief of Security.*

*If the UDC is to be involved, the supervisor shall serve the detainee with a copy of the Notice of Charges upon completion of the investigation, no less than 24 hours before the UDC hearing.*

*The UDC receives the original copy.*

*If the UDC hears the matter, the ranking member of that committee shall serve the detainee with a copy of the Incident Report/Notice of Charges indicating their decision. The UDC, upon conclusion of its proceedings, will forward the entire record to either the Chief of Detention or the IDP, as appropriate.*

***Investigation Report***

*Original-submitted to the UDC.  
Detainee does not receive a copy*

***UDC Report of Findings and Action***

*Original-served on the detainee after the committee issues its findings  
Copy-to the detainee detention file (guilty finding only)*

***Notice of IDP Hearing***

*Original-served on detainee  
Copy-detainee detention file*

***Detainee Rights at IDP Hearing***

*Original-served on detainee  
Copy-facility detention file*

***IDP Report***

*Original-detainee detention file  
Copy-detainee*

**K. Confidential Information**

When a decision relies on information from a confidential informant, the UDC or IDP shall include in the hearing record the factual basis for finding the information reliable.

**L. Notice to Detainees**


The detainee handbook, or equivalent, shall notify detainees of the following:

1. The disciplinary process.
2. The prohibited acts and disciplinary severity scale:
3. The procedure for appealing disciplinary findings.

**IV. AMERICAN CORRECTIONAL ASSOCIATION STANDARDS REFERENCED**


American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities: 3-ALDF-3C-01, 3C-02, 3C-03, 3C-04, 3C-05, 3C-06, 3C-07, 3C-08, 3C-09, 3C-10, 3C-11, 3C-12, 3C-13, 3C-14, 3C-15, 3C-16, 3C-17, 3C-18, 3C-19, 3C-20, 3C-21, 3C-22

**Approval of Standard**

  
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**Michael D. Cronin**  
Acting Executive Associate Commissioner  
Office of Programs

SEP 20 2000

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**Date**

  
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Executive Associate Commissioner  
Office of Field Operations

SEP 20 2000

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**Date**

**"GREATEST" OFFENSE CATEGORY**

CODE	PROHIBITED ACTS	SANCTIONS
100	Killing	A. Initiate criminal proceedings
101	Assaulting any person (includes sexual assault)	B. Disciplinary transfer (recommend)
102	Escape from escort; escape from a secure facility	C. Disciplinary segregation (up to 60 days)
103	Setting a fire (charged with this act in this category only when found to pose a threat to life or a threat of serious bodily harm or in furtherance of a prohibited act of greatest severity, e.g., a riot or an escape; otherwise the charge is classified as Code 218 or 321)	D. Make monetary restitution, if funds are available.
104	Possession or introduction of a gun, firearm, weapon, sharpened instrument, knife, dangerous chemical, explosive, escape tool, device, or ammunition.	
105	Rioting	
106	Inciting others to riot	
107	Hostage-taking	
108	Assaulting a staff member or any law enforcement officer	
109	Threatening a staff member or any law enforcement office with bodily harm.	
*198	Interfering with a staff member in the performance of duties (conduct must be of the greatest severity). This charge is to be used only if another charge of greatest severity is not applicable.	
*199	Conduct that disrupts or interferes with the security or orderly running of the facility (conduct must be of the greatest severity). This charge is to be used only if another charge of greatest severity is not applicable.	

**"HIGH" OFFENSE CATEGORY**

<b>CODE</b>	<b>PROHIBITED ACTS</b>	<b>SANCTIONS</b>
200	Escape from unescorted activities, open or secure facility, without violence	A. Initiate criminal proceedings
201	Fighting, boxing, wrestling, sparring, and any other form of physical encounter, including horseplay, that causes or could cause injury to another person; except when part of an approved recreational or athletic activity	B. Disciplinary transfer (recommend) C. Disciplinary segregation (up to 60 days) D. Make monetary restitution, if funds are available
202	Possession or introduction of an unauthorized tool	E. Loss of privileges: commissary, movies, recreation, etc.
203	Loss, misplacement, or damage of any restricted tool	F. Change housing
204	Threatening another with bodily harm	G. Remove from program and/or group activity
205	Extortion, blackmail, protection: demanding or receiving money or anything of value in return for protection against others, avoiding bodily harm, or avoiding a threat being informed against	H. Loss of job I. Impound and store detainee's personal property J. Confiscate contraband
206	Engaging in sexual acts	K. Restrict to housing unit
207	Making sexual proposals or threats	
208	Wearing a disguise or mask	
209	Tampering with or blocking any lock device	
210	Adulteration of food or drink	

**"HIGH" OFFENSE CATEGORY, cont'd**

CODE	PROHIBITED ACTS	SANCTIONS
211	Possession, introduction, or use of narcotics, narcotic paraphernalia, or drugs not prescribed for the individual by the medical staff	A. Initiate criminal proceedings
212	Possessing an officer's or staff member's clothing	B. Disciplinary transfer (recommend)
213	Engaging in or inciting a group demonstration	C. Disciplinary segregation (up to 60 days)
214	Encouraging others to participate in a work stoppage or to refuse to work	D. Make monetary restitution, if funds are available
215	Refusing to provide a urine sample or otherwise cooperate in a drug test	E. Loss of privileges: commissary, movies, recreation, etc.
216	Introducing alcohol into the facility	F. Change housing
217	Giving or offering an official or staff member a bribe or anything of value	G. Remove from program and/or group activity
218	Giving money to, or receiving money from, any person for an illegal or prohibited purpose, such as introducing/conveying contraband	H. Loss of job
219	Destroying, altering, or damaging property (government or another person's) worth more than \$100	I. Impound and store detainee's property
		J. Confiscate contraband
220	Being found guilty of any combination of three or more high moderate or low moderate offenses within 90 days	K. Restrict to housing unit

**"HIGH" OFFENSE CATEGORY, cont'd**

CODE	PROHIBITED ACTS	SANCTIONS
221	Signing, preparing, circulating, or soliciting support for prohibited group petitions	A. Initiate criminal proceedings
222	Possessing or introducing an incendiary device, e.g., matches, a lighter, etc.	B. Disciplinary segregation (recommend) C. Disciplinary segregation
223	Any act that could endanger person(s) and/or property	D. Make monetary restitution, if funds are available
*298	Interfering with a staff member in the performance of duties (conduct must be of highest severity). This charge is to be used only when no other charge of highest severity is applicable.	E. Loss of privileges, e.g., commissary, movies, recreation, etc. F. Change housing G. Remove from program and/or group activity
*299	Conduct that disrupts or interferes with the security or orderly operation of the facility (conduct must be of highest severity). This charge is to be used only when no other charge of highest severity is applicable.	H. Loss of job I. Impound and store detainee's personal property J. Confiscate contraband K. Restrict to housing unit

\*When the prohibited act is interfering with a staff member in the performance of duties (Code 198, 298, 398 or 498) or conduct that disrupts (Code 199, 299, 399 or 499), the Disciplinary Committee should specify in its findings the severity-level of the conduct, citing a comparable offense in that category. For example, "We find the act of to be of high severity, most comparable to Code 213, "engaging in a group demonstration."

**“HIGH MODERATE” OFFENSE CATEGORY**

<b>CODE</b>	<b>PROHIBITED ACTS</b>	<b>SANCTIONS</b>
300	Indecent exposure	A. Initiate criminal proceedings
301	Stealing (theft)	B. Disciplinary transfer (recommend)
302	Misuse of authorized medication	
303	Loss, misplacement, or damage of a less restricted tool	C. Disciplinary segregation (up to 72 hours)
304	Lending property or other item of value for profit/increased return	D. Make monetary restitution
305	Possession of item(s) not authorized for receipt or retention; not issued through regular channels	E. Loss of privileges, e.g., vending machines, recreation, etc. F. Change housing
306	Refusal to clean assigned living area	G. Remove from program
307	Refusing to obey a staff member/officer’s order (may be categorized and charged as a greater or lesser offense, depending on the kind of disobedience: continuing to riot is Code 105--Rioting; continuing to fight, Code 201--Fighting; refusing to provide a urine sample, Code 215	H. Loss of job I. Impound and store detainee's personal property J. Confiscate contraband K. Restrict to housing unit
308	Insolence toward a staff member	L. Reprimand
309	Lying or providing false statement to staff	M. Warning



**“HIGH MODERATE” OFFENSE CATEGORY,**

<b>CODE</b>	<b>PROHIBITED ACTS</b>	<b>SANCTIONS</b>
310	Counterfeiting, forging, or other unauthorized reproduction of money or other official document or item, e.g. security document, identification card, etc. (may be categorized as greater or lesser offense, depending on the nature and purpose of the reproduction, e.g., counterfeiting release papers to effect escape--Code 102 or 200)	A. Initiate criminal proceedings B. Disciplinary transfer (recommend) C. Disciplinary segregation (up to 72 hours) D. Make monetary restitution
311	Participating in an unauthorized meeting or gathering	E. Loss of privileges, e.g., vending machines, recreation, etc.
312	Being in an unauthorized area	F. Change housing
313	Failure to stand count	G. Remove from program and/or group activity
314	Interfering with count	H. Loss of job
315	Making, possessing, or using intoxicant(s)	I. Impound and store detainee's personal property
316	Refusing a breathalyzer test or other test of alcohol consumption	J. Confiscate contraband
317	Gambling	K. Restrict to housing unit
318	Preparing or conducting a gambling pool	L. Reprimand
319	Possession of gambling paraphernalia	M. Warning
320	Unauthorized contact with public.	

**HIGH MODERATE” OFFENSE CATEGORY,**

<b>CODE</b>	<b>PROHIBITED ACTS</b>	<b>SANCTIONS</b>
321	Giving money or another item of value to, or accepting money or another item of value from anyone, including another detainee, without staff authorization	A. Initiate criminal proceedings B. Disciplinary transfer (recommend)
322	Destroying, altering, or damaging property (government or another person’s) person’s) worth more than \$100	C. Disciplinary (up to 72 hours) D. Make monetary restitution
*398	Interfering with a staff member in the performance of duties (offense must be of high moderate severity). This charge is to be used only when no other charge in this category is applicable.	E. Loss of privileges; vending machines, recreation, etc. F. Change housing
*399	Conduct that disrupts or interferes with the security or orderly running (offense must be of high moderate severity). This charge is to be used only when no other charge in this category is applicable.	G. Remove from program and/or group activity H. Loss of job I. Impound and store detainee's personal property J. Confiscate contraband K. Restrict to housing unit L. Reprimand

NOTE: Any combination of high moderate and low moderate offenses during a 90-day period shall constitute a high offense.

**“LOW MODERATE” OFFENSE CATEGORY**

<b>CODE</b>	<b>PROHIBITED ACTS</b>	<b>SANCTIONS</b>
400	Possession of property belonging to another person	D. Make monetary restitution
401	Possessing unauthorized clothing	E. Loss of privileges, e.g., commissary, vending machines, recreation
402	Malingering, feigning illness	
403	Smoking where prohibited	F. Change housing
404	Using abusive or obscene language	G. Remove from program and/or group activity
405	Tattooing, body piercing, or self-mutilation	H. Loss of job
406	Unauthorized use of mail or telephone (with restriction or temporary suspension of the abused privileges often the appropriate sanction)	I. Impound, store detainee’s personal property
407	Conduct with a visitor in violation of rules and regulations (with restriction or temporary suspension of visiting privileges often the appropriate sanction)	J. Confiscate contraband
408	Conducting a business	K. Restrict to housing unit
409	Possession of money or currency, unless specifically authorized	L. Reprimand
410	Failure to follow safety or sanitation regulations	M. Warning
411	Unauthorized use of equipment or machinery	
412	Using equipment or machinery contrary to posted safety standards	

**“LOW MODERATE” OFFENSE CATEGORY, cont’d**

CODE	PROHIBITED ACTS	SANCTIONS
413	Being unsanitary or untidy, failing to keep self and living area in accordance with posted standards	D. Make monetary restitution
498	Interfering with a staff member in the performance of duties (offense must be of low moderate severity). This charge is to be used only when no other charge in this category is applicable.	E. Loss of privileges. e.g., commissary, vending machines, recreation
		F. Change housing
		G. Remove from program and/or group activity
		H. Loss of job
*499	Conduct that disrupts or interferes with the security or orderly running of the facility (offense must be of low moderate severity). This charge is to be used only when no other charge in this category is applicable.	I. Impound and store detainee's personal property
		J. Confiscate contraband
		K. Restrict to housing unit
		L. Reprimand
		M. Warning



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**Detainee Rights at The Institution Disciplinary Panel Hearing (IDP)**

As a detainee charged with a prohibited act(s), you have been referred to the Institution Disciplinary Panel for disposition. While at the IDP hearing, you have the following rights:

1. The right to have a written copy of the charge(s) against you at least 24 hours prior to appearing before the IDP.
2. The right to have a full time member of staff who is reasonably available to assist you before the IDP.
3. The right to call witnesses and present documentary evidence in your behalf, provided institutional safety would not be jeopardized.
4. The right to remain silent. Your silence may be used to draw an adverse inference against you. However, your silence alone may not be used to support a finding that you committed a prohibited act.
5. The right to be present throughout the IDP decision, except during committee deliberations and where institutional safety would be in jeopardy.
6. The right to be advised of the IDP decision in writing and the facts supporting the panel's decision, except where institutional safety would be jeopardized.
7. The right to appeal the decision of the IDP by means of the Detainee Grievance Procedure to the Officer in Charge, within 15 days of the notice of the panel's decision and disposition.

**I hereby acknowledge that I have been advised of the rights afforded me at the Institution Disciplinary Panel hearing.**

Signed: \_\_\_\_\_ A-Number \_\_\_\_\_ Date: \_\_\_\_\_

Notice of Rights given to the detainee by \_\_\_\_\_  
Staff Member & Date

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**Refusal to Sign**

I have personally advised \_\_\_\_\_ of the rights afforded detainees at the Institution Disciplinary Panel hearing. The detainee refused to sign the acknowledgment.

Staff member and date: \_\_\_\_\_

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**Waiver of 24 hours Notice:**

I have been advised that I have at least a 24 hour notice prior to appearing before the IDP. At this time, I wish to waive this right and proceed with the IDP hearing

Detainee Signature, Date and Time: \_\_\_\_\_

_____	_____	_____	
Name of Detainee	A-Number	Date of Incident	
_____	_____	_____	_____
Place of Incident	Quarters	Date/Investigation	Code(s)

Name of Investigating Officer : \_\_\_\_\_ has advised \_\_\_\_\_  
Detainee

that he/she has the right to remain silent at stages of the disciplinary process, but, that silence may be used to draw an adverse inference against him/her at any stage of the disciplinary process. However, silence alone may not be used to support a finding that he/she committed a prohibited act.

Detainee Statement and Attitude During the Interview: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Other Facts about the Incident: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Investigator's Comments and Conclusions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date and Time Investigation Began: \_\_\_\_\_

Date and Time Investigation Ended: \_\_\_\_\_

\_\_\_\_\_  
Signature of Investigating Officer

\_\_\_\_\_  
Reviewed for Accuracy by: (SDEO/DOS)

\_\_\_\_\_  
Name of Detainee

\_\_\_\_\_  
A-Number

\_\_\_\_\_  
Date of Incident

Place of Incident: \_\_\_\_\_

Prohibited Act(s) Code: \_\_\_\_\_

Committee Action: Comments to Committee from Detainee Regarding the above Incident: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

It Is the Finding of the Unite Disciplinary Committee That:

1. You Committed the Prohibited Act as Charged: Code(s) \_\_\_\_\_

2. You Committed the Following Prohibited Act : Codes(s) \_\_\_\_\_

3. You Did Not Commit a Prohibited Act as Charged: \_\_\_\_\_

Committee Findings Are Based on the Following Information: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Committee Action:

Waives IDP Hearing and Accepts the UDCs Sanction: \_\_\_\_\_

Name of Detainee

Refer to IDP Date & Time: \_\_\_\_\_/\_\_\_\_\_

Loss of Privileges  Loss of Job  Quarter Changes

Restrict to Dorm  Remove from Program  Reprimand

Warning  Confiscate Contraband  Impound Personal Property

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

UDC Chairpersons Signature: \_\_\_\_\_

UDC Member's Signature: \_\_\_\_\_

UDC Time and Date: \_\_\_\_\_/\_\_\_\_\_





Name of Detainee: \_\_\_\_\_ A-Number: \_\_\_\_\_

Date of Incident: \_\_\_\_\_ Code(s) \_\_\_\_\_

I. Notice of Charge(s):

- A. Advance written notice of charge(s) (copy of Incident Report) was given to the detainee on \_\_\_\_\_ at \_\_\_\_\_  
date time
- B. The IDP hearing was held on \_\_\_\_\_ at \_\_\_\_\_  
date time
- C. The detainee was advised of his/her rights before this IDP by \_\_\_\_\_  
officer  
on \_\_\_\_\_ and a copy of the advisement of rights form is attached.

II Staff Representative:

- A. Detainee waived his/her right to staff representative: \_\_\_\_\_
- B. Detainee requested staff representative and \_\_\_\_\_ appeared.  
staff representative
- C. Requested staff representative declined or could not appear but detainee was advised of option to postpone hearing to obtain an alternative staff representative with the result: \_\_\_\_\_

III. Presentation of Evidence:

- A. Detainee has been advised of his/her right to present a statement or to remain silent, to present documents, including written statements of unavailable witnesses, and for relevant and material witnesses to appear on his/her behalf.
- B. Summary of detainee's statement: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- C. Witnesses:
- The following persons were called as witnesses at this hearing and appeared: \_\_\_\_\_  
\_\_\_\_\_
  - A summary of testimony of each witness is attached
  - The following persons requested were not called for the reason(s) given \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  - Unavailable witnesses were requested to submit written statements and those statements received were considered (statements attached)
  - Documentary evidence: In addition to the incident report and investigation, the panel considered the following documents: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  - Confidential information was considered by the IDP and was not provided to the detainee on \_\_\_\_\_  
date



**U.S. Immigration and Naturalization Service  
NATIONAL DETENTION STANDARDS  
MONITORING INSTRUMENT**

**Policy:** All facilities housing INS detainees are authorized to impose discipline on detainees whose behavior is not in compliance with facility rules and regulations.

<b>DISCIPLINARY POLICY</b>			
<b>Components</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
1. Does the facility have a disciplinary system? If so, does it have: a. Progressive levels of reviews? b. Appeals? c. Procedures, including documentary procedures?			
2. Do the facility rules state that disciplinary action shall not be capricious or retaliatory?			
3. Do rules prohibit staff from imposing or permitting the following sanctions: a. corporal punishment b. deviations from normal food service c. clothing deprivation d. bedding deprivation e. denial of personal hygiene items f. loss of correspondence privileges g. deprivation of physical exercise?			
4. Are the rules of conduct, sanctions, and procedures for violations defined in writing and communicated to all detainees? a. How?			
5. Are the following conspicuously posted in Spanish and English or other languages? a. Rights and Responsibilities? b. Prohibited Acts? c. Disciplinary Severity Scale? d. Sanctions? e. If so, where posted?			
6. When minor rule violations or prohibited acts occur, are informal resolutions encouraged?			

**DISCIPLINARY POLICY**

Components	Yes	No	Remarks
7. If informal resolutions are not appropriate, are incident reports and Notice of Charges promptly forwarded to the INS/CDF supervisor?			
8. Are incident reports investigated within 24 hrs of the incident report? a. Does the Unit Disciplinary Committee (UDC) or equivalent convene before investigations have ended?			
9. Is an intermediate disciplinary process used to adjudicate minor infractions?			
10. Does a disciplinary panel adjudicate infractions? If so does the panel: a. Conduct hearings on all charges and allegations referred by the UDC? b. Consider written reports, statements, physical evidence, and oral testimony? c. Hear pleadings by detainee and staff representative? d. Base its findings on the preponderance of evidence? e. Impose authorized sanctions?			
11. Is a staff representative available, if requested for a detainee facing a disciplinary hearing?			
12. Does the facility permit hearing postponements or continuances? a. Under specified conditions? b. Which?			
13. Does the duration of punishment set by the OIC/recommended by the disciplinary panel ever exceed established sanctions? a. Does the maximum time in segregation after the exceed 60 days?			

**DISCIPLINARY POLICY**

<b>Components</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
14. Do written procedures govern the handling of confidential-informant information? a. Do standards include criteria for recognizing "substantial evidence"?			
15. Are forms relevant to the incident, investigation, committee/panel reports, etc., completed and distributed as required?			

**U.S. Immigration and Naturalization Service  
NATIONAL DETENTION STANDARDS  
MONITORING INSTRUMENT**

**DISCIPLINARY POLICY**

**Verification Sources:**

**The following may serve as sources of information for auditors verifying the facilities compliance with this detention standard:**

<b>SOURCE</b>	<b>TIME</b>	<b>DATE</b>	<b>LOCATION</b>
A. Observing posted notices of rights			
B. Observing disciplinary hearings			
C. Review of written disciplinary actions			
D. Facility's written policy and procedures			
E. Detainee and staff interviews			

Facilities must complete the attached Plan of Action for bringing operations into compliance. For each element found out of compliance, the plan of action will specify remedial action and the estimated timetable for compliance.

**Remarks:** *(Record significant facts, observations, other sources used, etc.)*

\_\_\_\_\_  
Auditors Signature

\_\_\_\_\_  
Date