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Your Responsibility When Using the Information Provided Below:

When putting this together, we did our best to give you useful and accurate information because we know that prisoners often have trouble getting legal information, and we cannot give specific advice to all prisoners. Laws and policies change often and can be looked at in different ways. We do not always have the resources to make changes to this material as soon as laws or policies change. If you use this pamphlet, it is your responsibility to make sure that the law or policy has not changed. Most of the materials you need should be available in your institution's law library.

PROTECTIVE CUSTODY (D.O. 805) AND REASONABLE SAFETY CLAIMS Updated March 2019

Dear Sir or Madam:

Thank you for contacting our office with your concerns. This letter contains information on how to obtain Protective Custody status within the Arizona Department of Corrections (ADC). Unfortunately, our class action lawsuit, *Parsons v. Ryan*, does not cover protective custody issues. The *Parsons* case challenges ADC's inadequate medical care, mental health care, dental care, and conditions in maximum custody. We understand the flaws in the Protective Custody program are a huge issue for people in the ADC. We hope the information in this handout is helpful. At the end of this letter, you will find a copy of Department Order 805 (DO 805), ADC's policy on Protective Custody.

What is Protective Custody?

DO 805 dictates that Protective Custody is reserved for people identified as requiring segregation from the general prison population. Populations in Protective Custody can include, but are not limited to, those with a record of being physically assaulted; reputation of being an informant or trial witness; history of sexual assault; former criminal justice officials; lesbian, gay, bisexual, transgender, or intersex (LGBTI); or convicted of certain crimes which result in threats, verbal abuse, or harassment from the general prison population.

There are two types of protective custody statuses:

- **Security Threat Groups (STG) Debriefed Protective Custody:** People who renounce their membership with an STG and are subsequently approved for this status shall be identified by the STG Debriefed Protective Custody code in Adult Information Management System (AIMS). For more information on STG Debriefed Protective Custody and STG status, please see DO 805.10 and DO 806.
- **Protective Custody:** All others approved for Protective Custody Placement shall be identified by the Protective Custody code in AIMS.

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How can I get Protective Custody?

Any person in ADC custody can make a written or verbal request for Protective Custody. Staff will use the request to initiate a documented review of your need for protection status. Any staff member who receives a written or verbal request from an incarcerated person for protection or who becomes aware of a threat to an incarcerated person shall immediately isolate the person in a safe, reasonably secure area and notify the Shift Commander. The Shift Commander or their designee shall:

- Complete an Information Report (Form 105-2) and have the incarcerated person complete a Protective Custody Inmate Statement (Form 805-1), to identify specifics for Protective Custody. As part of the initial inquiry, you will be asked to provide written supporting facts on the Protective Custody Inmate Statement form. If you are unable or unwilling to provide these facts when first questioned, staff may obtain and record this information at a later time. **The inability or unwillingness to identify a specific attacker, or threatening individual, or other potential threat source may not be the sole reason for excluding you from further consideration in initiating the formal protection review process.**
- Make an effort to resolve your concerns. The Shift Commander may change your cell block or bed assignment, add a Do Not House With (DNHW), or try mediation. All attempts at mediation or movement within the unit shall be documented on the Information Report form. If movement within your original unit is not an available resolution and it is determined you need a Protective Custody review, the Shift Commander will proceed with the Protective Custody review process.

All staff shall be alert to signs that a person is in danger and may require protection. Staff shall take steps to protect a person even when that person does not acknowledge that a threat exists. When staff has information suggesting there may be a threat to that person's safety, the person shall be isolated as outlined in DO 805.

What is the Protective Custody review process and how long does it take?

The Protective Custody review process consists of multiple steps, including an initial review, an informal review, and a formal review. Each step can take anywhere from a few days to weeks to complete. Unfortunately, you may be housed in a detention unit or "refuse to house" unit for the duration of the process.

After the process is complete, a recommendation is made by the Deputy Warden as to whether or not you are to be placed in Protective Custody. That recommendation then goes to the Central Office Protective Custody Unit, who will then forward the recommendation to the Protective Custody Administrator (PCA) or Protective Custody Committee. The PCA or Committee renders a final decision within seven (7) workdays. After that decision is made, the Deputy Warden will notify you within three (3) workdays of the PCA's or Committee's decision. . If you are denied Protective Custody, staff shall immediately notify mental health staff. Mental health staff are supposed to see you and evaluate you within 24 to 72 hours of the notice of the decision. Under the requirements of the Parsons v. Ryan case, mental health staff should always offer to hold encounters in a confidential location, and not at cellfront. If you do not feel comfortable speaking to mental health staff at your cell door, you should ask to speak in a confidential location. If they refuse to see you in a confidential setting, you can write our office or the

ACLU National Prison Project to let us know that the encounter was held cell front. (The ACLU's address is at the end of this handout).

For complete details on the entire Protective Custody review process, please see DO 805.02 – 805.06.

What if I disagree with the decision made by the PCA or Protective Custody Committee?

As stated above, the Deputy Warden will inform you of the decision made by the PCA or Protective Custody Committee within three (3) workdays of it being rendered. The Deputy Warden should also ensure that you are provided with an Inmate Letter (Form 916-1) to appeal the decision. You have three (3) workdays to complete the appeal and submit it to a staff member in the Detention Unit, who shall promptly forward the appeal to the assigned CO IV for processing. The detention staff member receiving the appeal shall sign (print) and date the appeal prior to forwarding to the CO IV. The appeal is limited to one page. After receiving your appeal, the CO IV should scan or fax the appeal to the Protective Custody Unit within one (1) workday of receipt.

Within fifteen (15) workdays from receipt of the appeal, the Security Operations Administrator shall review the appeal and case information (current and prior) and ensure a response is formulated. The decision will be forwarded to the PCA who will then forward it to the unit Deputy Warden. The Deputy Warden will ensure that you are served the appeal decision within three (3) workdays of receipt. You will be asked to sign and date the appeal decision when served by the staff. The decision from the Security Operations Administrator is final. Once the grievance has been reviewed and the denial is final, you have exhausted your administrative grievances for purposes of filing an individual lawsuit against the department. Our office cannot assist you in filing any such case. We have self-help materials from the federal and state court systems that explain how you can represent yourself in a lawsuit against the department. If you would like a copy of either or both of these handouts, please write us back and ask for a copy of our handout on suing in federal court, and/or the handout on suing in state court.

If you refuse to house after the final decision, you may be subjected to a more restrictive custody assignment

What if I want to leave Protective Custody?

If you would like to voluntarily remove yourself from Protective Custody, you must submit a written request via Inmate Letter to the Deputy Warden. The CO IV and Special Security Unit (SSU) will interview you and review your case within five (5) workdays of receipt of your removal request. The Deputy Warden will then recommend approval or denial of the request and forward the request to the Warden within five (5) workdays from receipt.

The Warden will review the information and make a determination. If the Warden believes you should stay in Protective Custody, the process is considered complete, and you will be notified of the decision within three (3) workdays.

If the Warden believes you should be removed from Protective Custody, they will make a recommendation to the PCA for a Protective Custody Committee review. The Protective Custody Committee shall review the information and Warden's recommendation within ten (10) workdays. The decision by the Protective Custody Committee is considered final and you may not appeal. Mental health

staff will be immediately notified if you were denied removal (in other words, if you are to continue on PC status).

What if I am removed from Protective Custody?

The Warden or Deputy Warden may recommend you be removed from Protective Custody based on information that Protective Custody Placement may no longer be warranted or due to your assaultive and/or predatory behavior. Within five (5) workdays from the Warden or Deputy Warden's request, the CO IV and SSU shall:

- Review your case and gather the pertinent facts to determine if you can be returned to general population.
- Interview you.
- Document the facts on the Protective Custody CO IV/SSU Investigative Summary Report form.
- Forward all documentation and their recommendation to the Deputy Warden.

The Deputy Warden will recommend removal or retention after considering the facts presented by you and the information from the CO IV and SSU. The Deputy Warden should forward this information to the Warden within five (5) workdays of receipt.

The Warden will then review the packet and recommend approval or denial. If the Warden determines you should stay in Protective Custody, the process is considered complete and you will remain in Protective Custody. You may not appeal this decision.

If the Warden determines you should be removed from Protective Custody, the request will be sent to the PCA for a Protective Custody Committee review. The Protective Custody Committee shall review the information and Warden's recommendation within ten (10) workdays. The decision by the Protective Custody Committee is considered final and you may not appeal. Mental health staff will be immediately notified if you were approved for removal. You should be seen and evaluated by mental health staff within 24 to 72 hours of the notice of the decision.

What if I am returning to ADC and was previously in Protective Custody?

If you are returning to ADC on a parole revocation or on a new charge, and you previously were in Protective Custody the last time you were in custody, you will be isolated from the general population upon intake, pending review. If you were previously denied Protective Custody or approved for "alternate placement," you are not required to be reviewed by the Protective Custody review process. You may re-initiate the process by verbal or written request, if you relay new verifiable information regarding your safety concern.

If you were previously approved for Protective Custody and your criminal activities while on release status may pose a significant risk to the safety and security of a Protective Custody Unit, you will undergo a new full review to determine your appropriate custody level/security needs.

If you were re-incarcerated one year or less from the time of your release and were previously approved for Protective Custody status, you will be considered Protective Custody status upon your return.

If you were re-incarcerated more than a year from the time of your release and were previously approved for Protective Custody status, you will be placed back into the process to determine if Protective Custody is still necessary.

If you had STG Debriefed Protective Custody status, you will be segregated from the general population pending a review of your activities while on release status and continued need for protection.

If you were released prior to the completion of the Protective Custody review, the process will continue from the point of interruption. You will be segregated from the general population until the process is complete.

Thank you for writing to us. We hope this information is helpful. If you have concerns about a non-confidential mental health encounter, or the conditions in the maximum custody or RTH/detention units, you should write our co-counsel at the ACLU National Prison Project, because they monitor this part of the case. You can send them a letter via Legal Mail to the following address:

ACLU National Prison Project
Attn: Ms. Amy Fettig, Esq.
915 15th St., N.W., 7th Floor
Washington, D.C. 20005

We wish you the best of luck.

Sincerely,

Prison Law Office

Enclosure: Department Order 805

CHAPTER: 800

Inmate Management

DEPARTMENT ORDER:

805 – Protective Custody

**OFFICE OF PRIMARY
RESPONSIBILITY:**

OPS

Arizona Department of Corrections

Department Order Manual



Effective Date:

May 11, 2014

Amendment:

September 7, 2015

Supersedes:

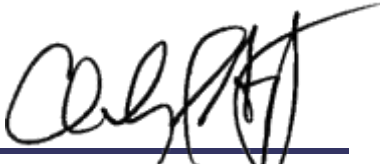
DO 805 (3/7/13)

Scheduled Review Date:

TBD

ACCESS

Contains Restricted Section(s)



Charles L. Ryan, Director

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PURPOSE

This Department Order establishes procedures for identifying and safeguarding inmates with legitimate protection needs. While careful classification, appropriate security measures, and preliminary screening for alternate management strategies can serve to reduce the number of such cases, some inmates still require segregation from the general prison population. The methods for accomplishing this goal are comprehensive, professionally executed and legally sound. Public and institutional safety concerns are always the governing elements for staff as they manage these cases.

References to health care professional (i.e., Health Services, Mental Health Services, and Dental Services) are referring to the Health Services Contractor or their sub-contractors unless otherwise stated.

PROCEDURES

1.0 PROTECTIVE CUSTODY IDENTIFICATION PROCESS

- 1.1 Any inmate may make a written or verbal request for Protective Custody, which staff shall use to initiate a documented review of the inmate's need for protection status. There are two Protective Custody statuses:
 - 1.1.1 Security Threat Groups (STG) Debriefed Protective Custody – All inmates who successfully renounce their membership with an STG and are subsequently approved for this status shall be identified by the STG Debriefed Protective Custody code in Adult Information Management System (AIMS).
 - 1.1.2 Protective Custody – All other inmates approved for Protective Custody placement shall be identified by the Protective Custody code in AIMS.
- 1.2 Any staff member who receives a written or verbal request from an inmate for protection or who becomes aware of a threat to an inmate shall immediately isolate the inmate in a safe, reasonably secure area and notify the Shift Commander.
- 1.3 The Shift Commander or designee shall:
 - 1.3.1 Complete an Information Report, Form 105-2, and have the inmate complete a Protective Custody Inmate Statement, Form 805-1, to identify specifics for Protective Custody.
 - 1.3.1.1 As part of this initial inquiry, the inmate shall be asked to provide written supporting facts on the Protective Custody Inmate Statement form.
 - 1.3.1.2 If an inmate is unable or unwilling to provide such facts when first questioned regarding the request, staff may obtain and record such information at a later time. The inability or unwillingness to identify a specific attacker, or threatening individual, or other potential threat source may not be the sole reason for excluding an inmate from further consideration in initiating the formal protection review process.

- 1.3.2 Make an effort to resolve the inmate's concerns. Changes to cell block or bed assignments, addition of a Do Not House With (DNHW) or mediation shall be considered as options. All attempts at mediation or movement within the unit shall be documented on the Information Report form.
 - 1.3.2.1 If a resolution is made that allows for movement within the original unit, document circumstances and solutions in the appropriate AIMS comment screen, and complete Unit Administrator Protective Custody Review, Form 805-2, and send to the Protective Custody Unit to be included in the inmate's Protective Custody File.
 - 1.3.2.2 If movement within the original unit is not an available resolution and it is determined the inmate requires a Protective Custody review, proceed with the Protective Custody review process as outlined in section 2.0 of this Department Order.
- 1.4 All staff shall be alert to signs that an inmate is in danger and may require protection. Staff shall take steps to protect an inmate even when the inmate does not acknowledge that a threat exists. When staff has information suggesting there may be a threat to that inmate's safety, the inmate shall be isolated as outlined in this section.

2.0 INITIAL PROTECTIVE CUSTODY REVIEW PROCESS

- 2.1 The Shift Commander shall:
 - 2.1.1 Move the inmate to a Detention Unit.
 - 2.1.2 Ensure any inmate being considered for placement in the Protective Custody review process, be immediately referred to Mental Health Services.
 - 2.1.2.1 Mental health staff shall respond, evaluate and determine the necessary action for these inmates.
 - 2.1.3 Immediately place a Protective Custody hold by annotating the AIMS PC screen. The Protective Custody hold shall only include the date the review was initiated, staff AIMS Identification Number (SID) and unit AIMS designation. For example: 01/01/01 805 review initiated. SMM4/AOO.
 - 2.1.4 Document each step of the review on the appropriate AIMS comment screen.
 - 2.1.5 Interview the inmate using the Protective Custody Security Initial Interview, Form 805-4, within one workday.
 - 2.1.6 Place the Information Report, Inmate Statement, Protective Custody Placement/ Review Request and Protective Custody Security Initial Interview Forms with the Protective Custody packet and forward to the Deputy Warden within one workday.

3.0 INFORMAL REVIEW

- 3.1 The Deputy Warden or designee shall review the initial information gathered by the Shift Commander, and within one workday determine if movement to another general population location would resolve the issue or if the Protective Custody review process needs to continue.
- 3.2 If the Deputy Warden and inmate agree movement to another general population location would resolve the issue, the Deputy Warden shall:
 - 3.2.1 Complete the Unit Administrator Protective Custody Review form, clearly indicating the inmate and Deputy Warden agree movement to another general population unit would resolve the issue.
 - 3.2.2 Complete the DNHW memo.
 - 3.2.3 Ensure the comments are completed in the appropriate AIMS comment screen.
 - 3.2.4 Ensure the documents are scanned to the Central Office Protective Custody Unit for review and scheduling of movement to an appropriate location.
- 3.3 If the Deputy Warden determines a complete review is required, or the inmate is not willing to agree that movement to another general population yard would resolve the issue, the Deputy Warden shall document the reasons on the Unit Administrator Protective Custody Review form, and forward documents to the Correctional Officer (CO) IV the same day.

4.0 FORMAL REVIEW

- 4.1 The CO IV shall track the entire Protective Custody process using the Protective Custody Tracking, Forms 805-9A and 805-9B.
- 4.2 Once an inmate is formally placed in the Protective Custody review process, mental health staff shall be immediately notified by sending an email to the designated Complex mental health email address. ***[Revision – September 7, 2015]***
 - 4.2.1 Mental health staff shall evaluate/interview every inmate placed in detention/segregation under the Protective Custody placement process within 24, but no more than 72 hours of that placement, in order to determine the risk of self-harm.
 - 4.2.2 All inmates placed in Protective Custody review process shall be contacted by mental health staff at least once of every 30 days.
 - 4.2.3 More frequent contacts as prescribed by mental health staff shall be based upon factors such as; the results of the initial interview/evaluation, specific concerns of mental health staff, referral to Mental Health Services by security staff, the inmate's mental health score or new information.

4.3 The CO IV and Special Security Unit (SSU) shall:

4.3.1 Review the case, gather pertinent facts to determine if any of the following circumstances are present, and document the results on the Protective Custody Interview Assessment, Form 805-5, and Protective Custody CO IV/SSU Investigative Summary Report, Form 805-6.

4.3.1.1 Record of being physically assaulted

4.3.1.2 Reputation among the inmate population of being an informant or trial witness

4.3.1.3 Record of being threatened, verbally abused, or harassed

4.3.1.4 Sexually assaulted, threatened, abused, or harassed

4.3.1.5 Threats by verified STG's or other gang or group

4.3.1.6 Former criminal justice official or been involved in activity directly supporting criminal justice actions resulting in threats, verbal abuse, or harassment

4.3.1.7 Convicted of a crime repugnant to the inmate population resulting in threats, verbal abuse, or harassment

4.3.1.8 Physical size, build or age producing a risk from the general population

4.3.1.9 Identified as lesbian, gay, bisexual, transgender or intersex (LGBTI) who may be at risk from the general population ***[Revision – September 7, 2015]***

4.3.1.10 Unspecified or generalized threat or fear, or repeated Protective Custody request previously reviewed and denied containing no new, relevant information

4.3.1.11 The incident that occurred that caused the request

4.3.1.12 The names of any inmate(s) who may have assaulted or threatened the inmate

4.3.1.13 Specific noticeable marks consistent with a physical altercation

4.3.1.14 Where and when any such act(s) occurred

4.3.1.15 Any medical treatment offered, and if the inmate was transported to medical for treatment

4.3.1.16 Photographs of the injury and assault or weapon

4.3.1.17 Any other relevant information

4.4 The CO IV shall forward all information to the Deputy Warden or designee within five workdays from the date the Deputy Warden completed the Unit Administrator Protective Custody Review form.

- 4.4.1 The following forms shall be completed and forwarded to the Deputy Warden or designee for review and evaluation:
 - 4.4.1.1 Information Report form
 - 4.4.1.2 Protective Custody Placement/Review Request form
 - 4.4.1.3 Protective Custody Inmate Statement form
 - 4.4.1.4 Unit Administrator Protective Custody Review form
 - 4.4.1.5 Protective Custody Interview Assessment form
 - 4.4.1.6 Protective Custody Security Initial Interview form
 - 4.4.1.7 Protective Custody CO IV Investigative Summary form
 - 4.4.1.8 Any additional supporting documentation to include disciplinary reports, Criminal Investigation Unit (CIU) reports, Information Reports and photographs
- 4.4.2 It is the responsibility of the inmate to fully cooperate in the investigation process. If it is determined that an inmate has willingly withheld or falsified information, he/she shall be subject to disciplinary action. Additionally, although the lack of information provided by the inmate is not enough to preclude processing the Protective Custody review, the lack of information could be a factor in determining whether a threat exists.
- 4.4.3 The SSU and/or CO IV can request an extension, not to exceed five workdays, through the Deputy Warden or designee. The reason for the extension shall be documented on the appropriate AIMS comment screen.
- 4.4.4 The Deputy Warden or designee shall review the initial information gathered by the Shift Commander, SSU and the CO IV. Within five workdays, the Deputy Warden or designee shall determine if the circumstances indicate that a protection issue exists and document those findings on the Protective Custody Decision Worksheet, Form 805-7, and the Protective Custody Placement Review Request form as outlined in section 5.0 of this Department Order.
- 4.5 The Deputy Warden or designee shall:
 - 4.5.1 Recommend the inmate for Protective Custody, alternative placement to another unit, or denial and annotate the appropriate AIMS comment screen.
 - 4.5.2 Ensure copies of all reports generated under this section are forwarded to the Protective Custody Administrator (PCA).
- 4.6 If the Deputy Warden or designee determines additional information is required and an immediate recommendation cannot be made, forward all documents to the CO IV to continue the Protective Custody investigation process as outlined in section 5.0 of this Department Order.

- 4.6.1 The SSU Officer and CO IV designated by the Deputy Warden or designee shall continue the investigation within one workday from the date and time the Deputy Warden or designee requests further review and document on the appropriate AIMS comment screen.
- 4.6.2 The investigation shall be completed within ten workdays. One additional extension of five workdays may be authorized by the Deputy Warden or designee based on exceptional circumstances (e.g., witness unavailable, delay in receiving needed documents to conclude the investigation, etc.). Staffing issues do not meet the "exceptional" circumstances standard.
- 4.6.3 Any pertinent information gathered during the Deputy Warden or designee interview shall be reviewed, investigated and additional interviews conducted with the inmate as deemed necessary.
- 4.6.4 The CO IV may request a mental health assessment if the inmate exhibits or displays unusual or bizarre behavior. An Information Report form shall be completed by the CO IV documenting this request.
- 4.6.5 Other individuals, such as staff, inmates, agencies, etc. may be interviewed as needed.
- 4.6.6 Any previous Protective Custody reviews conducted for the inmate shall be reviewed and considered.
- 4.6.7 An overview of the inmate's history of being a victim of assault, injuries sustained from it, and discipline record shall be reviewed and considered.
- 4.6.8 A summary of the inmate interview and investigation findings shall be documented on the Protective Custody Investigative Summary Report. Attempts to identify potential witnesses, assailants, and the like shall be documented in the summary.
- 4.7 If it is determined that a criminal investigation is required, CIU will be notified to conduct an independent criminal investigation.
- 4.8 If at any time the inmate requests to terminate the process and return to the unit, a Protective Custody Inmate Statement form shall be completed.
 - 4.8.1 The Deputy Warden or designee shall review the inmate's request and determine if the inmate should return to the unit.
 - 4.8.2 If it is determined the inmate can return to the unit, the Deputy Warden or designee shall ensure the Protective Custody Inmate Statement form and the Unit Administrator Protective Custody Review form are completed and documented on the appropriate AIMS comment screen. All documents shall be scanned to the PCA and placed in the Protective Custody File.

5.0 PROTECTIVE CUSTODY REVIEW PROCESS - RECOMMENDATION

- 5.1 The Deputy Warden or designee shall review the case documentation and make a recommendation using the Protective Custody Decision Worksheet and the Protective Custody Placement Review Request form and forward it to the PCA within five workdays.

- 5.1.1 The following criteria shall be taken into consideration when making the final decision:
 - 5.1.1.1 Was the inmate involved in a physical altercation?
 - 5.1.1.2 Did the inmate provide court testimony or provide information to law enforcement officials which has been discover by other inmates?
 - 5.1.1.3 Is there a verified STG related threat against the inmate?
 - 5.1.1.4 Has the inmate been in Protective Custody placement before (Arizona Department of Corrections (ADC), County Jail other jurisdiction)?
 - 5.1.1.5 High profile crime that may jeopardize the inmate’s safety.
 - 5.1.1.6 Was the inmate employed as a law enforcement/corrections officer or related field?
- 5.1.2 The lack of available alternate placement options shall not be considered as a reason for placement into Protective Custody.

6.0 PROTECTIVE CUSTODY UNIT REVIEW PROCESS

- 6.1 Within ten workdays of receipt, the Central Office Protective Custody Unit staff shall:
 - 6.1.1 Review the case documentation to ensure the Protective Custody File is complete.
 - 6.1.2 If the file is not complete, determine information required and recommend the file be returned to the Deputy Warden.
 - 6.1.3 If the file is complete, review case information, complete the Protective Custody Decision Worksheet and forward a recommendation to the PCA for Committee Review.
- 6.2 As designated, the PCA or Protective Custody Committee shall:
 - 6.2.1 Review the documentation.
 - 6.2.2 Make a final decision within seven workdays as to whether a threat to the inmate exists.
 - 6.2.3 If additional information is required or needs to be provided, notify the institution of information required and document the request on the appropriate AIMS comment screen that the decision is held in abeyance until additional information is received from the institution. The institution shall have five workdays from date of the request to provide the requested information.
- 6.3 The PCA shall ensure a written explanation as to the rationale for the Protective Custody Committee’s decision is provided if it is different from the Deputy Warden’s recommendation.
- 6.4 The PCA or Protective Custody Committee shall notify the Deputy Warden or designee of the unit where the inmate is housed as soon as possible of the decision, but no more than three workdays from the date of the decision.

6.5 Protective Custody Committee - The PCA or designee shall chair the Protective Custody Committee.

6.5.1 The following staff members are required to participate in a Protective Custody Committee meeting:

6.5.1.1 STG Investigator or designee

6.5.1.2 An Offender Services CO IV

7.0 INITIAL PROTECTIVE CUSTODY REVIEW PROCESS - INMATE APPEAL

7.1 The Deputy Warden or designee shall:

7.1.1 Within three workdays, notify the inmate of the PCA or Protective Custody Committee's decision. This notification shall be annotated on the appropriate AIMS comment screen.

7.1.2 Ensure the inmate is advised of the decision, signs, dates, and acknowledges being advised of the right to appeal using the Protective Custody Placement Review Request form. The Protective Custody Placement Review Request form shall be scanned and returned to the PCA for inclusion in the file.

7.1.3 Ensure the inmate is provided with an Inmate Letter, Form 916-1, to appeal. The inmate shall have three workdays to complete the appeal and submit it to a staff member in the Detention Unit, who shall promptly forward the appeal to the assigned CO IV for processing. The detention staff member receiving the appeal from the inmate shall sign (print) and date the appeal prior to forwarding to the CO IV. The appeal shall be limited to one page.

7.1.4 Ensure the appeal time frames commence when the inmate signs the Protective Custody Placement Review Request form.

7.1.4.1 If an appeal is not received within the designated time frames, the process will continue as outlined in section 11.0 of this Department Order.

7.1.5 If the inmate elects to appeal, notify the PCA of the date of service and that an appeal will be forthcoming. The inmate's decision to appeal or not appeal shall be documented on the appropriate AIMS comment screen. The date of the inmate's decision shall be listed to document the inmate's appeal timeframes.

7.1.5.1 After obtaining the inmate's appeal, the CO IV shall scan or fax the appeal to the Protective Custody Unit within one workday of receipt.

7.1.6 If the inmate waives the right to appeal, ensure the process of making an institution assignment is continued as outlined in section 11.0 of this Department Order.

7.2 Within 15 workdays from receipt of the appeal, the Security Operations Administrator or designee shall review the appeal and case information (current and prior) and ensure a response is formulated. The decision shall then be forwarded to the PCA who shall forward the decision to the unit Deputy Warden.

- 7.2.1 The Deputy Warden of the location where the inmate is housed shall ensure the inmate is served the appeal decision within three workdays of receipt. The inmate shall sign and date the appeal decision when served by the staff.
- 7.2.2 The PCA shall determine what transfers or other actions are required and ensure the actions take place. The result of the appeal decision shall be documented on the appropriate AIMS comment screen.
- 7.2.3 The decision from the Security Operations Administrator or designee is final.
- 7.3 Once a Protective Custody decision has been completed and appeals exhausted, staff shall take appropriate disciplinary and classification actions if the inmate refuses to enter general population. These actions may eventually result in inmate placement in a more restrictive custody assignment. An inmate's unwillingness to enter general population following completion of the review and appeal process does not constitute evidence of a need for protection.
- 7.4 When inmates are denied Protective Custody, approved for alternate placement or approved for removal from Protective Custody, staff shall immediately notify the mental health staff by sending an email to the designated Complex mental health email address. ***[Revision – September 7, 2015]***
 - 7.4.1 Those inmates denied Protective Custody, approved for alternate placement or approved for removal from Protective Custody must be seen and evaluated by mental health staff within 24 to 72 hours of the notice of the decision to the inmate. A copy of this notice shall be forwarded to the Regional Mental Health Director.
 - 7.4.2 The CO IV or designee shall document the notification on the appropriate AIMS comment screen.

8.0 REMOVAL FROM PROTECTIVE CUSTODY *[Revision – September 7, 2015]*

- 8.1 Voluntary Removal from Protective Custody - Any inmate may voluntarily request removal from Protective Custody by submitting a written request via Inmate Letter form to the Deputy Warden or designee.
 - 8.1.1 The CO IV and the SSU shall:
 - 8.1.1.1 Interview the inmate within five workdays of receipt of the removal request.
 - 8.1.1.2 Review the case and gather pertinent facts to determine if the inmate could safely be returned to general population.
 - 8.1.1.3 Document the results on the Protective Custody CO IV/SSU Investigative Summary Report form.
 - 8.1.1.4 Forward all supporting documentation and recommendation to the Deputy Warden or designee within five workdays from receipt of the request.

- 8.1.2 The Deputy Warden or designee shall recommend approval or denial of the request, after considering facts presented by the inmate, information contained in the Protective Custody File, the CO IV/SSU interview and any other supporting documentation on the Removal Review, Form 805-11, the Protective Custody Decision Worksheet, and the appropriate AIMS comment screen, and forward the packet to the Warden or designee within five workdays from receipt. ***[Revision – September 7, 2015]***
- 8.1.3 The Warden or designee shall:
- 8.1.3.1 Review the packet and the Deputy Warden or designee’s recommendation.
 - 8.1.3.2 Recommend approval or denial on the Removal Review form and the Protective Custody Decision Worksheet, and annotate on the appropriate AIMS comment screen within five workdays of receipt. If the Warden or designee determines: ***[Revision – September 7, 2015: Sections 8.1.3.2 thru 8.1.3.2.2]***
 - 8.1.3.2.1 On the basis of a review of all documentation and evidence that the inmate shall remain in Protective Custody, the process is complete and the packet shall be sent to the PCA for placement in the Protective Custody File. The Deputy Warden or designee shall ensure the inmate signs and dates the Removal Review form, within three workdays. The inmate may not appeal.
 - 8.1.3.2.2 There is reason to believe the inmate should be removed from Protective Custody status and could be housed in a general population unit, the full packet containing the Warden or designee’s rationale on the Removal Review form and the Protective Custody Decision Worksheet shall be forwarded to the PCA for a Protective Custody Committee review.
- 8.1.4 The Protective Custody Committee shall, within ten workdays of receipt, review the removal packet and determine based upon an assessment of all investigative information, and the recommendation from the Warden or designee, if the inmate is to be removed from Protective Custody status.
- 8.1.4.1 The Protective Custody Unit shall notify the Deputy Warden or designee of the unit where the inmate is housed as soon as possible of the decision using the Removal Review form. ***[Revision – September 7, 2015]***
 - 8.1.4.2 The decision of the PCA is final and the inmate may not appeal.
- 8.1.5 The Deputy Warden or designee shall ensure the inmate signs and dates the Removal Review form within three workdays of the PCA decision and make a comment on the appropriate AIMS comment screen indicating that the inmate was advised of the decision. ***[Revision – September 7, 2015]***

8.1.6 Mental Health Services shall be immediately notified if the inmate is denied for removal by sending an email to the designated Complex mental health email address. ***[Revision – September 7, 2015]***

8.2 Administrative Removal from Protective Custody ***[Revision – September 7, 2015]***

8.2.1 The Warden or Deputy Warden may recommend an inmate be removed from Protective Custody based on information that Protective Custody Placement may no longer be warranted or due to assaultive/predatory behavior. ***[Revision – September 7, 2015: Sections 8.2.1 thru 8.2.1.2]***

8.2.1.1 SECTION DELETED

8.2.1.2 SECTION DELETED

8.2.2 Within five workdays from the Warden or Deputy Warden's request, the CO IV and SSU shall: ***[Revision – September 7, 2015]***

8.2.2.1 Review the case and gather pertinent facts to determine if the inmate could be returned to general population.

8.2.2.2 Interview the inmate.

8.2.2.3 Document the facts on the Protective Custody CO IV/SSU Investigative Summary Report form.

8.2.2.4 Forward all documentation and recommendation to the Deputy Warden or designee within five workdays of the request.

8.2.3 The Deputy Warden or designee shall recommend removal or retention after considering facts presented by the inmate, information contained in the Protective Custody File, the CO IV/SSU interview and any other supporting documentation on the Removal Review form, the Protective Custody Decision Worksheet and the appropriate AIMS comment screen, and forward the packet to the Warden or designee within five workdays of receipt. ***[Revision – September 7, 2015]***

8.2.4 The Warden or designee shall:

8.2.4.1 Review the packet and the Deputy Warden or designee's recommendation.

8.2.4.2 Recommend approval or denial on the Removal Review form, the Protective Custody Decision Worksheet and annotate the appropriate AIMS comment screen within five workdays of receipt. If the Warden or designee determines: ***[Revision – September 7, 2015: Sections 8.2.4.2 thru 8.2.4.2.2]***

- 8.2.4.2.1 On the basis of a review of all documentation and evidence that the inmate shall remain in Protective Custody, the process is complete and the packet shall be sent to the PCA for placement in the Protective Custody File. The Deputy Warden or designee shall ensure the inmate signs and dates the Removal Review form, within three workdays. The inmate may not appeal.
- 8.2.4.2.2 There is reason to believe the inmate should be removed from Protective Custody status and could be housed in a general population unit, the full packet containing the Warden or designee's rationale on the Removal Review form, the Protective Custody Decision Worksheet shall be forwarded to the PCA for a Protective Custody Committee review.
- 8.2.5 The Protective Custody Committee shall, within ten workdays, determine based upon an assessment of all investigative information, and the detailed recommendations of the CO IV/SSU, Deputy Warden and Warden, if the inmate is to be removed from Protective Custody status.
 - 8.2.5.1 The Protective Custody Committee shall document the approval or denial for removal from Protective Custody status on the Removal Review form, the Protective Custody Decision Worksheet and annotate the appropriate AIMS comment screen. ***[Revision – September 7, 2015]***
 - 8.2.5.1.1 If the Protective Custody Committee determines on the basis of a review of all documentation and evidence that the inmate shall remain in Protective Custody, the process is complete and the packet shall be placed in the Protective Custody File. The inmate may not appeal.
 - 8.2.5.1.2 The Protective Custody Unit shall notify the Deputy Warden or designee of the unit where the inmate is housed as soon as possible of the decision.
 - 8.2.5.2 The Deputy Warden or designee shall:
 - 8.2.5.2.1 Within three workdays, notify the inmate of the Protective Custody Unit decision. This notification shall be annotated on the appropriate AIMS comment screen.
 - 8.2.5.2.2 Ensure the inmate dates and signs the Removal Review form, and scan to the PCA for inclusion in the Protective Custody File. ***[Revision – September 7, 2015]***
 - 8.2.5.2.3 If the decision of the Protective Custody Unit was to remove the inmate from Protective Custody, follow the appeal process outlined in section 11.0 of this Department Order.

8.2.6 When inmates are approved for removal from Protective Custody, staff shall immediately notify the mental health staff by sending an email to the designated Complex mental health email address. ***[Revision – September 7, 2015]***

8.2.6.1 Those inmates being removed from Protective Custody must be seen and evaluated by mental health staff within 24 to 72 hours of the notice of the decision to the inmate. A copy of this notice shall be forwarded to the Regional Mental Health Director.

8.2.6.2 The CO IV or designee shall document the notification on the appropriate AIMS comment screen.

9.0 RE-INCARCERATED INMATES

9.1 An inmate who was previously incarcerated in the Department and was released while in Protective Custody during the most recent incarceration shall be isolated from the general population pending review as outlined in this section.

9.1.1 Re-incarcerated inmates who, during their previous incarceration were denied Protective Custody or approved for “alternate placement” are not required to be reviewed by the Protective Custody review process.

9.1.2 The inmate may re-initiate the process by verbal or written request, as outlined in section 1.0 of this Department Order, providing the inmate relays new verifiable information regarding their perceived safety concern.

9.1.3 On a case-by-case basis, previously approved Protective Custody inmates, whose criminal activities while on release status may pose a significant risk to the safety and security of a Protective Custody Unit shall undergo a new full review to determine their appropriate custody level/security needs.

9.1.4 Staff processing re-incarcerated inmates at intake who identify a security concern shall notify the PCA who shall determine whether a new full investigation is to be conducted.

9.1.5 Inmates who are re-incarcerated one year or less from the time of their release, and who were for approved Protective Custody status upon release, shall be considered Protective Custody status upon return. ***[Revision – September 7, 2015][2]***

9.1.6 Inmates who are re-incarcerated after more than a year from the time of their release, and who were approved Protective Custody status upon release shall be placed back into the process to determine if Protective Custody is still necessary as outlined in section 1.0 of this Department Order. ***[Revision – September 7, 2015][2]***

9.1.6.1 Staff at the receiving institution shall notify the Protective Custody Unit to remove the previous Protective Custody AIMS identifier until the completion of the new review and a decision on the inmate’s status has been finalized. ***[Revision – July 24, 2014]***

9.1.7 STG debriefed inmates shall be segregated from the general population pending a review of their activities while on release status and continued need for protection as outlined in section 10.0 of this Department Order.

9.2 Inmates who were released prior to the completion of the Protective Custody review shall have the process continued from the point of interruption and isolated from other general population inmates until the process is completed.

9.3 **SECTION DELETED [Revision – July 24, 2014]**

10.0 SECURITY THREAT GROUP DEBRIEFED INMATES

10.1 Inmates who successfully debrief from a STG shall not require a formal review. The Protective Custody status will only require the Protective Custody – Security Threat Group Debrief Placement, Form 805-8, to be completed. This form shall be completed by the unit Deputy Warden and forwarded to the PCA with the accompanying support documentation, for final disposition.

10.2 A STG debriefed inmate shall have a STG Unit report completed upon return to custody to verify non-involvement in gang activities while on release.

10.2.1 The inmate may be returned to Protective Custody status pending the findings of STG Unit.

10.2.2 If the findings demonstrate verified STG gang activity, the inmate shall be considered for re-validation as outlined in Department Order #806, Security Threat Group (STGs).

11.0 CENTRAL CLASSIFICATION/MOVEMENT

11.1 The Protective Custody Unit staff shall determine appropriate placement based on the inmate's custody level and Protective Custody status, enter the travel order on AIMS and forward the travel order to Central Office Movement staff for scheduling.

11.2 The Central Office Movement staff shall schedule the inmate for movement based on the travel order initiated by Protective Custody Unit staff.

11.3 If the approved location needs to be changed, Central Office Movement shall staff the issue with the PCA and/or Classification Manager to determine the most appropriate location.

11.4 When completed the file shall be scanned to the shared drive, maintained and secured by the Protective Custody Unit.

12.0 DO NOT HOUSE WITH DOCUMENTATION

12.1 Any recommendations regarding changes to the inmate's AIMS DNHW screens shall be completed by the CO IV and submitted in memo format, through the unit Deputy Warden and shall be included with the Protective Custody File.

12.2 The following steps shall be completed prior to the submission of a DNHW memo:

12.2.1 Documentation used to verify a DNHW and or the No Housing Restriction (NR) issues shall consist of any staff generated document that specifies the rationale as to who and why a DNHW is listed.

12.2.1.1 For clarification, the following source documents may include, but are not limited to:

- 12.2.1.1.1 AIMS comments
 - 12.2.1.1.2 CIU/SSU or other confidential reports
 - 12.2.1.1.3 Other/outside agency documents
 - 12.2.1.1.4 Protective Custody Interview Assessment form
 - 12.2.1.1.5 Information Reports/Significant Incident Reports
 - 12.2.1.1.6 Memos and letters
 - 12.2.1.1.7 The inmate's Institutional and Master Record Files
 - 12.2.1.1.8 Prior Protective Custody Files and documents
- 12.2.2 If the source document contains the "who" and "why" there does not need to be a corresponding Information Report documenting the required information. Prior Protective Custody source documents do not need to be duplicated within the same Protective Custody File(s) for subsequent reviews for the same inmate.
- 12.2.3 A Confidential Informant Reliability Assessment Questionnaire is to be completed for each confidential informant.
- 12.2.4 Compare the AIMS DNHW screens to the appropriate AIMS comment screens to ensure all inmates have been addressed.
- 12.2.5 Only in cases where no source documents can be located, as outlined in this section, does an interview need to be conducted with both inmates, to ascertain the possible issues. The interview shall be documented on an Information Report.
- 12.2.5.1 In cases where one inmate is inactive, the interview will still be documented on the Information Report indicating the inmate is inactive, however, the inmate will remain listed on the AIMS DNHW screen as a DNHW until further verification can be obtained.
 - 12.2.5.2 In these cases, an AIMS DNHW comment is entered on the inmate indicating that the interview was not completed. If the inmate returns, an interview will be completed and documented on a DNHW memo. The memo shall indicate the determination on status of the DNHW issue.
- 12.2.6 If at any time staff becomes aware of the verified death of an inmate, the staff shall notify the PCA or the Classification Manager via email so that the AIMS DNHW screen can be updated.
- 12.3 The Deputy Warden shall submit a memorandum to the PCA including all source documentation used to establish the AIMS DNHW entry. The lack of or insufficient source documentation does not preclude the application of sound correctional practice as a rationale to continue a previously added DNHW. In this instance the rationale shall be documented on an Information Report reflecting the decision and signed by the Deputy Warden.
- 12.4 All instances where inmates are involved in assaults, fights or threats must be evaluated for the possible need for a DNHW addition.

- 12.5 The Protective Custody Unit staff shall have the responsibility of adding or transferring inmates to the AIMS DNHW screen based upon the documentation provided by the Deputy Warden and final approval of the PCA.
- 12.6 Mediation Process - The mediation process shall be followed when the transfer of an inmate with a DNHW conflict listed on the AIMS DNHW screen to a unit appropriate for their custody is prevented due to the DNHW limitation. DNHW removals may be resolved through the mediation process.
 - 12.6.1 All inmates listed on the AIMS DNHW screen shall be reviewed at each Maximum Custody, Corrections Plan or Protective Custody review.
 - 12.6.1.1 Both the sending and receiving units shall confirm the approved DNHW reasons. If the documentation does not justify that the inmate should remain on the AIMS DNHW screen, the inmate shall be interviewed. Reason(s) for removal or retention on the AIMS DNHW screen shall be documented on the AIMS DNHW comment screen.
 - 12.6.2 If mediation is determined to be a viable option the CO IV shall:
 - 12.6.2.1 Conduct an interview and document that the inmates have no issues that would prevent them from being housed together. The inmates shall sign a written statement to this effect on the Inmate Letter form.
 - 12.6.2.2 If either inmate refuses to be housed with the other inmate, annotate the AIMS DNHW comment screen on both inmates, documenting the unsuccessful mediation. The movement shall not be scheduled.
 - 12.6.3 Successful Mediation - If both inmates agree to be housed together in the same unit and be removed from the AIMS DNHW screen, the sending unit shall contact Central Office Classification to schedule the movement. All documentation shall be sent with the inmate to the receiving unit.
 - 12.6.3.1 Upon arrival at the receiving unit, the Deputy Warden or designee shall conduct a face to face mediation between the inmates within one workday. Until the mediation is completed, the inmate from the sending unit shall be placed in a detention bed.
 - 12.6.3.2 If there are no issues presented, an Information Report shall be completed and the AIMS DNHW comment screen shall be annotated for both inmates, indicating successful mediation.
 - 12.6.3.3 All supporting documentation shall be used to generate a new DNHW memo to request removal of the DNHW restriction between the two inmates, signed by the Deputy Warden or designee and forwarded to the Offender Services Bureau.
 - 12.6.3.4 The Offender Services Bureau Administrator or designee shall review the supporting documentation and approve, deny or request additional information within two workdays. The final decision shall be annotated on the AIMS DNHW comment screen.

- 12.6.4 Unsuccessful Mediation - If mediation is unsuccessful, the inmate received shall remain in detention and Central Office Movement shall be notified via email requesting that the inmate be returned to the unit of origin.

IMPLEMENTATION

The Division Director for Prison Operations shall:

- In coordination with the Staff Development and Training Administrator, ensure the initial and in-service training is conducted as follows:
 - Includes the provisions of this Department Order.
 - Emphasizes professionalism in dealing with Protective Custody cases.
 - Instructs all correctional staff on how the process works (clear guidelines as what they should do), how they can positively impact protection related scenarios, and to make decisions based on sound correctional judgment.
 - Includes information on statutes and agency policies regulating the release of official information.
 - Is provided to all Wardens, Deputy Wardens, Administrators, Investigations staff, Classification staff, and to any other Department employees directly involved in the Protective Custody process, or in supervising or managing inmates requiring protection.
- Ensure inmates receive an orientation upon entering the Department that familiarizes them with the basic protections and procedures instituted and available under this Department Order.

The Inspector General shall ensure the appropriate content from the implementation of this Department Order is reviewed as part of the Department's regular inspection program as outlined in Department Order #606, Internal Inspections Program.

DEFINITIONS/GLOSSARY

Refer to the Glossary of Terms

ATTACHMENTS

Attachment A, ADC Protective Custody Initiation and Investigation Flowchart
Attachment B, File Format for Protective Custody Files

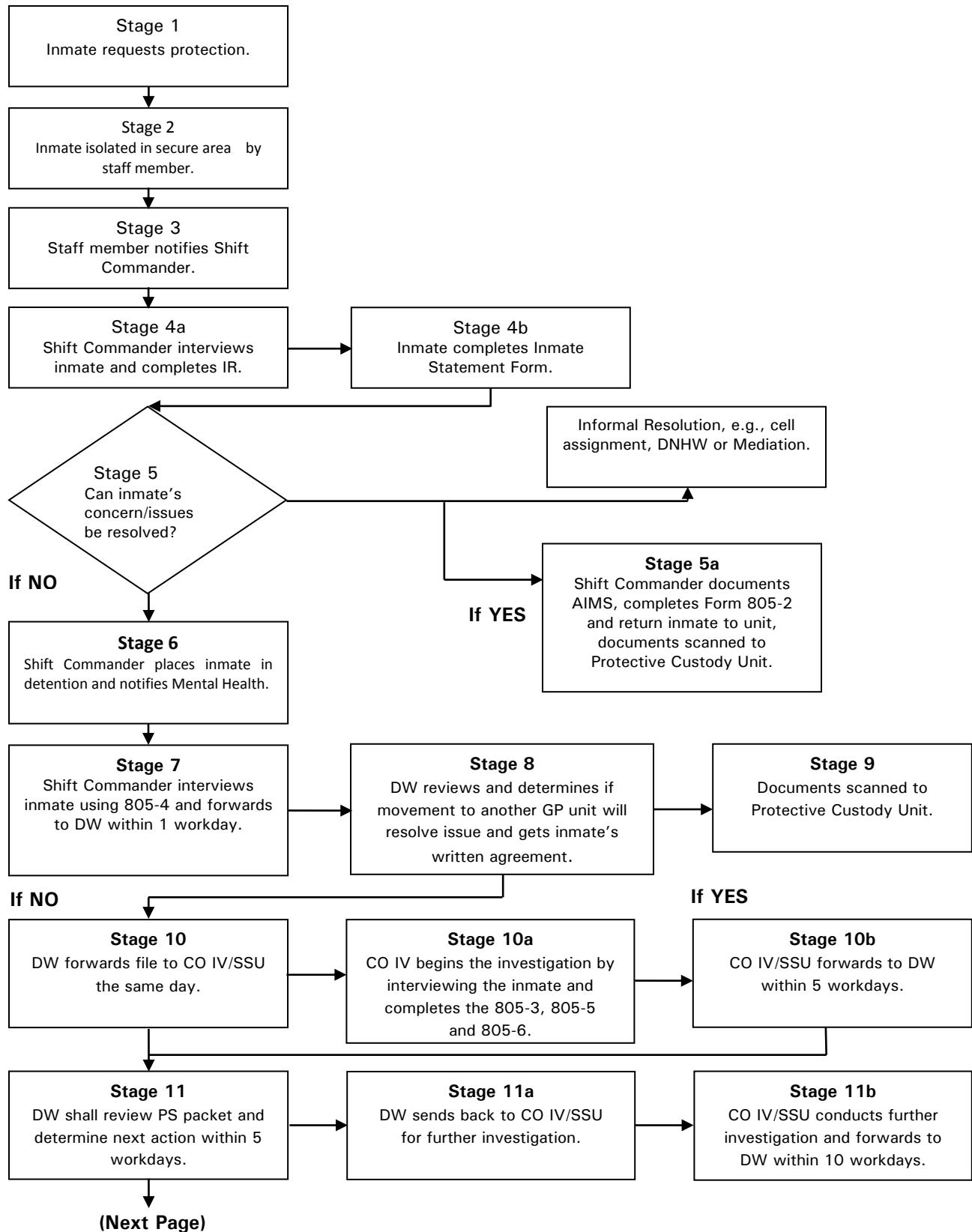
FORMS LIST *[Revision – September 7, 2015]*

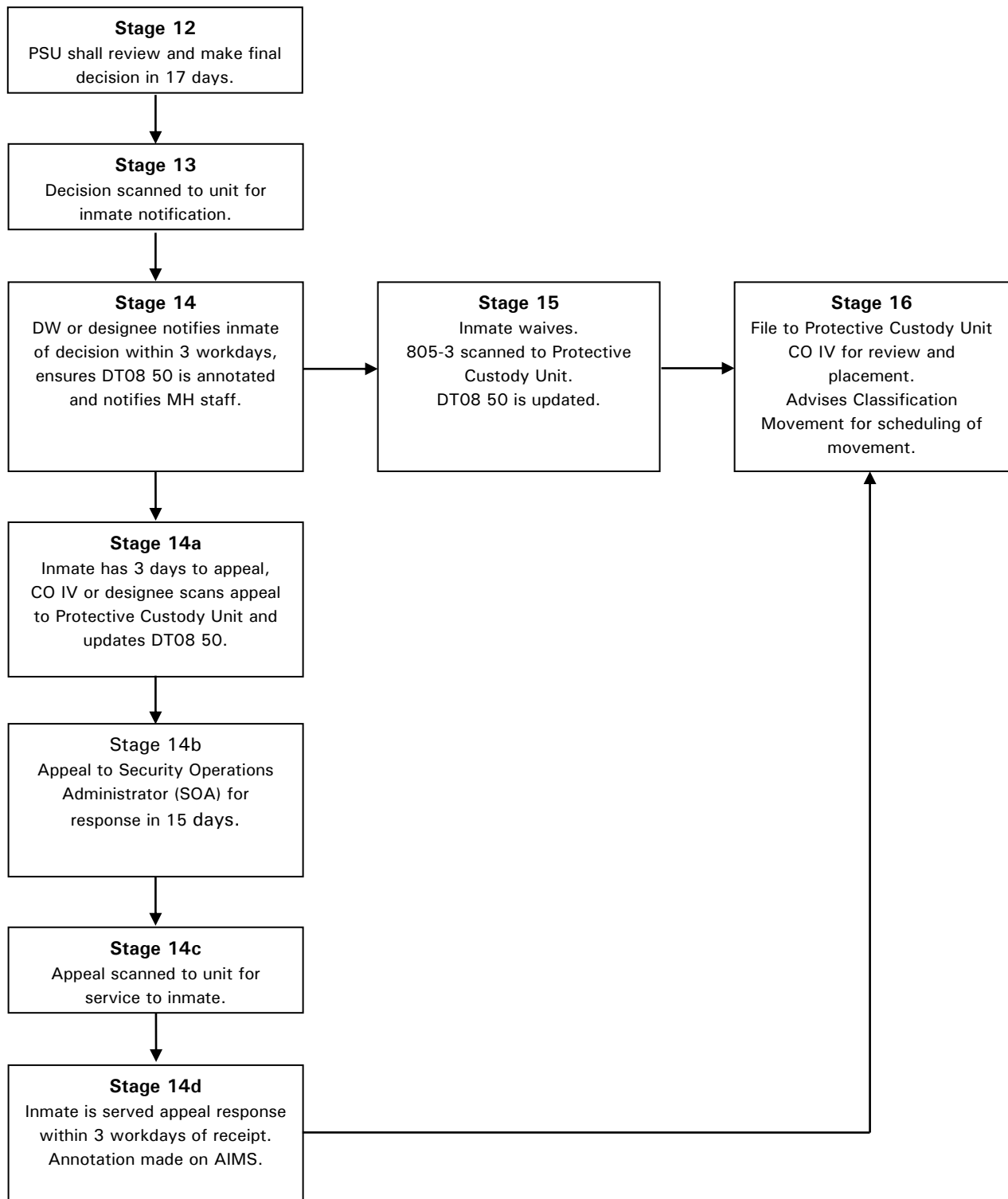
805-1, Protective Custody Inmate Statement
805-2, Unit Administrator Protective Custody Review
805-3, Protective Custody Placement Review Request
805-4, Protective Custody Security Initial Interview
805-5, Protective Custody Interview Assessment
805-6, Protective Custody CO IV/SSU Investigative Summary Report
805-7, Protective Custody Decision Worksheet
805-8, Protective Custody Security Threat Group Debriefed Placement
805-9A, Protective Custody Tracking Form – A

805-9B, Protective Custody Tracking Form – B
805-11, Removal Review

ATTACHMENT A

ADC PROTECTIVE CUSTODY INITIATION AND INVESTIGATION FLOWCHART





ATTACHMENT B

FILE FORMAT - PROTECTIVE CUSTODY FILES

LEFT SIDE

Protective Custody Tracking Form-A, Form 805-9A
Protective Custody CO IV/SSU Investigative Summary Report, Form 805-6
Unit Administrator Protective Custody Review, Form 805-2
Protective Custody Security Threat Group Debrief Placement, Form 805-8 (if applicable)

RIGHT SIDE

Protective Custody Review Request, Form 805-3
Protective Custody Decision Worksheet, Form 805-7
Protective Custody Tracking Form-B, Form 805-9B
Do Not House With memorandum
Protective Custody Inmate Statement, Form 805-1
Protective Custody Security Initial Interview, Form 805-4
Protective Custody Interview Assessment, Form 805-5
Information Report(s), Form 105-2
Supporting Documentation/Photos