



July 30, 2021

VIA EMAIL

Executive Steering Committee
Board of State and Community Corrections
2590 Venture Oaks Way, Suite 200
Sacramento, CA 95833
regulations@bscc.ca.gov

The American Civil Liberties Union (ACLU) has been involved in litigation, monitoring efforts, and legislative lobbying regarding conditions in carceral facilities in California for decades. Relevant bills ACLU Cal Action has sponsored include AB 732 (Strengthening Reproductive Healthcare for People in Jails and Prisons) and SB 132 (Transgender Respect, Agency, and Dignity Act). ACLU SoCal currently maintains hotlines for people incarcerated in Los Angeles and Orange County jails and is the court-ordered monitor for conditions in Los Angeles County Jails.

Reports by incarcerated people throughout the state reflect frustration with carceral conditions that do not meet basic needs. ACLU SoCal receives dozens of calls a week to its hotlines, reporting substandard and unconstitutional conditions in county jails. Members of our staff also conduct visits and in-person interviews at the Los Angeles and Orange County jails, allowing us to see conditions first-hand. Some of the complaints we receive reveal violations of Title 15 and 24 Regulations. Some complaints, however, reveal places where the regulations do not yet reflect best practices.

ACLU Cal Action recommends changes or additions to the following Definitions and provisions of Titles 15 and 24 Regulations:

Definitions

Cisgender

Gender Identity

Lesbian, Gay, Bisexual, Transgender, Questioning, Intersex (LGBTQI)

Sexual Orientation

Outdoor (new)

Title 15

1058.5. Restraints and Pregnant Inmates
1065. Exercise and Recreation
1073. Inmate Grievance Procedure
1081. Plan for Inmate Discipline
1083. Limitations on Disciplinary Actions
1240. Frequency of Serving
1241. Minimum Diet
1242. Menus
1246. Food Serving and Supervision
1247. Disciplinary Separation Diet
1260. Standard Institutional Clothing
1270. Standard Bedding and Linen Issue

Title 24

1231.2.10. Exercise Area

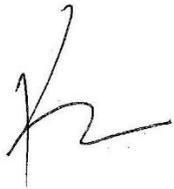
We also make a global recommendation, asking the Board of State and Community Corrections (BSCC) to remove the term “inmate” throughout, instead choosing people-first and people-centered language such as “incarcerated person.” (See BMC International Health and Human Rights, “Words matter: a call for humanizing and respectful language to describe people who experience incarceration,”

<https://bmcinthealthhumrights.biomedcentral.com/articles/10.1186/s12914-018-0180-4>.)

While these recommendations reflect our work and experience with those incarcerated in California, we do not purport to speak for those directly impacted. We strongly recommend that the BSCC establish a means of communication with people currently or formerly incarcerated to receive their direct input on the proposed Title 15 and 24 revisions.

We are grateful for the invitation the Executive Steering Committee of the BSCC has extended for comment and would be pleased to discuss any of these recommendations further.

Sincerely,

A handwritten signature in black ink, appearing to be 'Kevin Baker', written in a cursive style.

Kevin Baker
ACLU California Action



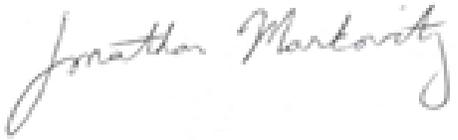
Melissa L. Camacho-Cheung
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Note: The revisions proposed by ACLU Cal Action are in blue. Any strikethroughs or underlining in black are those revisions currently proposed by the ESC.

LGBTQI Definitions

“Cisgender” means a person whose gender identity corresponds to the ~~gender~~ sex they were assigned at birth.

“Gender identity” means a person's sense of being male, female, some combination of male or female, or neither male nor female.

“Lesbian, Gay, Bisexual, Transgender, Questioning, Intersex (LGBTQI)” is ~~a diversity of sexuality and gender identity-based cultures~~ an umbrella term that acknowledges diverse sexual orientations and gender identities. It may be used to refer to anyone who is non-heterosexual and/or non-cisgender, instead of exclusively to people and is more inclusive than “lesbian, gay, bisexual, or transgender”. ~~To recognize this inclusion,~~ The letter Q is for those who identify as queer or are questioning their sexual orientation or gender identity. The letter I stands for “intersex” which is defined above.”

“Sexual orientation” means a person's emotional, romantic, and/or sexual attraction ~~for members of the same, opposite or both genders~~ to people of the same gender, a different gender, or multiple genders.

Notes:

ACLU Cal Action recommends these revisions to account for non-binary individuals and apply best practices in communications regarding LGBTQ individuals.

Resources:

GLAAD Media Reference Guide, 10th Edition, Oct. 2016,

<https://www.glaad.org/sites/default/files/GLAAD-Media-Reference-Guide-Tenth-Edition.pdf>.

New Definition: Outdoor

“Outdoor” means a space with open/fresh air, exposure to direct sunlight, and one that is not fully enclosed. If possible, outdoor space should be in view of vegetation.

Notes:

Defining “outdoor” is crucial to ensure Title 15 and 24 regulations apply best practices. In many Los Angeles County jail facilities, the “outdoor” area is, in fact, an indoor facility, fully-enclosed with a ceiling and four walls. It is not an open-air area. There is often one high window that provides some natural light but no line of sight to the outdoors. The proposed definition of “outdoors” is congruent with international and national best practices.

Resources:

The Association for the Prevention of Torture, “Outdoor Exercise,”

<https://www.ap.t.ch/en/knowledge-hub/detention-focus-database/life-prison-regime-and-activities/outdoor-exercise> (“The requirement that prisoners be allowed at least one hour of exercise in the open air every day is widely accepted as a basic safeguard” and “Outdoor areas, sometimes known as “prison yards” . . . should be genuinely outdoors, providing the opportunity for a “sunbath” (exposure to sunlight) and if possible in view of vegetation.”)

United Nations Office on Drugs and Crime, The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), at 7,

https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf (“Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits”).

American Bar Association, Criminal Justice Standards: Treatment of Prisoners, Standard 23-3.6. Recreation and out-of-cell time,

https://www.americanbar.org/groups/criminal_justice/publications/criminal_justice_section_archive/crimjust_standards_treatmentprisoners/#23-3.6 (“Each prisoner, including those in segregated housing, should be offered the opportunity for at least one hour per day of exercise, in the open air if the weather permits”).

§ 1058.5. Restraints and Pregnant Inmates.

The facility administrator, in cooperation with the responsible physician, shall develop written policies and procedures for the use of restraint devices on pregnant inmates. In accordance with Penal Code 3407 the policy shall include reference to the following:

- 1) An inmate known to be pregnant or in recovery after delivery or termination of the pregnancy shall not be restrained by the use of leg ~~irons~~ or waist restraints, ~~waist chains~~, or handcuffs behind the body.
- 2) A pregnant inmate in labor, during delivery, or in recovery after delivery or termination of the pregnancy, shall not be restrained by the wrists, ankles, or both, unless deemed necessary for the safety and security of the inmate, the staff, or the public.
- 3) Restraints shall be removed when a professional who is currently responsible for the medical care of a pregnant inmate during a medical emergency, labor, delivery, or recovery after delivery or termination of the pregnancy determines that the removal of restraints is medically necessary.
- 4) Upon confirmation of an inmate's pregnancy, ~~she~~ the pregnant person shall be advised, orally or in writing, of the standards and policies governing pregnant inmates.

Notes:

Use of inclusive language aligns with language used for pregnant individuals in the California Penal Code, specifically those sections revised by AB 732.

Resources:

American College of Obstetricians and Gynecologists, Policy Priorities: Health Care for Incarcerated Women, <https://www.acog.org/advocacy/policy-priorities/health-care-for-incarcerated-women>.

American College of Obstetricians and Gynecologists, ACOG Committee Opinion, Number 830, Reproductive Health Care for Incarcerated Pregnant, Postpartum, and Nonpregnant Individuals, July 2021, https://journals.lww.com/greenjournal/Fulltext/2021/07000/Reproductive_Health_Care_for_Incarcerated.37.aspx.

§ 1065. ~~Exercise and Recreation~~ Out of Cell Time

(a) The facility administrator of a Type II or III facility shall develop written policies and procedures for:

(1) an exercise ~~and recreation~~ program, in an area ~~designed for recreation exercise~~ pursuant to the Title 24 definition of an “Exercise Area”, which shall be offered for at least one hour per day, at a reasonable time of day. ~~Such regulations policies and procedures as are reasonable and necessary to protect the facility’s security and the inmates’ welfare shall be included in such a program. In Type IV facilities, such a program can be either in-house or provided through access to the community.~~

~~(1)(2) a recreation program, which will allow an opportunity for seven hours of recreational, or out of cell time, distributed over a period of seven days. Such regulations policies and procedures as are reasonable and necessary to protect the facility’s security and the inmates’ welfare shall be included in such a program.~~

Policies should include reasonable and necessary procedures to ensure safety and security. Outdoor time may be cancelled when hazardous or other inclement weather conditions exist, such as severe heat/humidity indexes, thunderstorms, hazardous air quality, or conditions that cause hypothermia.

(b) The facility administrator of a Type I facility shall make table games, ~~and/or~~ television, or both, available to inmates.

(c) In Type IV facilities, such a program can be either in-house or provided through access to the community.

Notes:

ACLU Cal Action commends the proposal to separate exercise and recreational time, increasing the weekly out-of-cell time to at least ten hours. For this regulation to be in accordance with international human rights standards, however, there must be an opportunity for all incarcerated individuals to exercise for at least one hour outdoors every day.

In Los Angeles County jails, incarcerated individuals are often offered “outdoor” time one day of the week. This means that many people who are incarcerated are not able to access nor utilize the full extent of their suggested outdoor time due to court dates, conflicts with other programming, or time for showers or cleaning their living spaces. The proposed suggestions ensure that all people that are incarcerated have an opportunity to exercise outdoors at least once a day, and that out of cell time will be better distributed overall.

Resources:

Association for the Prevention of Torture, Outdoor Exercise, <https://www.apt.ch/en/knowledge-hub/detention-focus-database/life-prison-regime-and-activities/outdoor-exercise> (“The requirement that prisoners be allowed at least one hour of exercise in the open air every day is widely accepted as a basic safeguard”).

United Nations Office on Drugs and Crime, The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), at 7
https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf (“Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits”).

American Bar Association, Criminal Justice Standards: Treatment of Prisoners, Standard 23-3.6 “Recreation and out-of-cell time,”
https://www.americanbar.org/groups/criminal_justice/publications/criminal_justice_section_archive/crimjust_standards_treatmentprisoners/#23-3.6 (“Each prisoner, including those in segregated housing, should be offered the opportunity for at least one hour per day of exercise, in the open air if the weather permits”).

§ 1073. Inmate Grievance Procedure.

(a) Each administrator of a Type II, III, or IV facility and Type I facilities which hold inmate workers shall develop written policies and procedures whereby any inmate may ~~file appeal and have resolved~~ file appeal and have resolved grievances relating to any conditions of confinement, including but not limited to: medical care; classification actions; disciplinary actions; program participation; telephone, mail, and visiting procedures; staff conduct; and food, clothing, and bedding. Such policies and procedures shall include:

- (1) a grievance form or instructions for registering a grievance, including all relevant deadlines;
- (2) resolution of the grievance at the lowest appropriate staff level;
- (3) appeal to the next level of review;
- (4) written reasons for denial of grievance at each level of review which acts on the grievance with an explanation of appeal process and deadlines;
- (5) provision for initial response within ~~a reasonable time limit~~ ten calendar days from the date the grievance was received; ~~and~~;
- (6) provision for resolving questions of jurisdiction within the facility; and,
- (7) provision for providing a copy of the grievance, appeal, response, and related documents to the incarcerated person.

(b) Grievance System Abuse:

The facility may establish written policy and procedure to control the submission of an excessive number of grievances.

Notes:

The ACLU California affiliates receive numerous complaints from people who are incarcerated regarding staff/personnel. The addition of “staff conduct” to the list of conditions of confinement ensures the normalization and de-stigmatization of these complaints.

Grievance forms and denials must contain information sufficient for incarcerated individuals to exercise their right to file grievances and appeal. As an example, while Los Angeles County has a 15-day general grievance deadline, that deadline is extended to 30 days for grievances against staff, and there is no deadline for filing complaints of sexual assault. (*See Los Angeles County Sheriff's Department Custody Division Manual, 8-04/040.00 Time Frames, 8-03/040.00 Grievances Against Staff, and 8-03/060.00 PREA-Related Grievances, http://pars.lasd.org/Viewer/Manuals/12687?returnContentID=13655#pagePosition_13.*) Additionally, denials must include instructions on how to appeal, including any relevant deadlines, for the appeal process to be effective.

ACLU Cal Action suggests adding an explicit guideline of a maximum time frame of ten days within which an incarcerated person must receive an initial response to their grievance. The current phrasing of this regulation is vague and could encourage a watering-down of deadlines already established by various jurisdictions. (See, e.g., Orange County Jail Rules, Policy 1600.5 Grievance Procedure, <https://ocsheriff.gov/sites/ocsd/files/2021-03/Redacted-Policy%201600%20-%20Orange%20County%20Jail%20Rules.pdf> (“Reasonableness will be based on the type and scope of the grievance submitted, but all inmate grievances will be acted on within ten working days of receipt.”))

§ 1081. Plan for Inmate Discipline.

Each facility administrator shall develop written policies and procedures for inmate discipline. The plan shall include, but not be limited to, the following elements:

(a) **Temporary Loss of Privileges:** For minor acts of non-conformance or minor violations of facility rules, staff may impose a temporary loss of privileges, such as access to television, telephones, commissary, or lockdown for less than 24 hours, provided there is written documentation and supervisory approval.

(b) **~~Punitive~~ Disciplinary Actions:** Major violations of facility rules or repetitive minor acts of non-conformance or repetitive minor violations of facility rules shall be reported in writing by the staff member observing the act and submitted to the disciplinary officer. The consequences of such violations may include, but are not limited to:

1. Loss of good time/work time.
2. Placement in disciplinary separation.
- ~~3. Disciplinary separation diet.~~
4. Loss of privileges mandated by regulations.

A staff member with investigative and ~~punitive~~ disciplinary authority shall be designated as a disciplinary officer to impose such consequences. Staff shall not participate in disciplinary review if they are involved in the charges.

Such charges pending against an inmate shall be acted on with the following provisions and within specified timeframes:

1. A copy of the report, ~~and~~ or a separate written notice of the violation(s), shall be provided to the inmate.
2. Unless declined by the inmate, a hearing shall be provided no sooner than 24 hours after the report has been submitted to the disciplinary officer and the inmate has been informed of the charges in writing. The hearing may be postponed or continued for a reasonable time through a written waiver by the inmate, or for good cause.
3. The inmate shall be permitted to appear on his/her own behalf at the time of hearing and present witnesses and documentary evidence. The inmate shall have access to staff or inmate assistance when the inmate ~~is illiterate~~ has limited literacy or the issues are complex.
4. A charge(s) shall be acted on no later than 72 hours after an inmate has been informed of the charge(s) in writing.

5. Subsequent to final disposition of disciplinary charges by the disciplinary officer, the charges and the action taken shall be reviewed by the facility manager or designee.
6. The inmate shall be advised in a written statement by the fact-finders about the evidence relied on and the reasons for the disciplinary action. A copy of the record shall be kept pursuant to Penal Code Section 4019.5.
7. There shall be a policy of review and appeal to a supervisor on all disciplinary action.

(c) Nothing in this section precludes a facility administrator from administratively segregating any inmate from the general population or program for reasons of personal, mental, or physical health, or under any circumstance in which the safety of the inmates, staff, program, or community is endangered, pending disciplinary action or a review as required by Section 1053 of these regulations.

(d) Nothing in this section precludes the imposition of conditions or restrictions that reasonably relate to a legitimate, non-punitive administrative purpose.

§ 1083. Limitations on Disciplinary Actions.

The Penal Code and the State Constitution expressly prohibit all cruel and unusual punishment, disciplinary actions shall not include corporal punishment, group punishment when feasible, and physical or psychological degradation. Additionally, there shall be the following limitations:

(a) Disciplinary separation shall be considered an option of last resort and as a response to the most serious and threatening behavior, for the shortest time possible, and with the least restrictive conditions possible.

- (1) If an inmate is on disciplinary separation status for 30 consecutive days there shall be a review by the facility manager before the disciplinary separation status is continued. This review shall include a consultation with health care staff. Such reviews shall continue at least every fifteen days thereafter until the disciplinary status has ended. This review shall be documented.
- (2) The disciplinary separation cells or cell shall have the minimum furnishings and space specified in Title 24, Part 2, 1231.2.6 and 2.7. Occupants shall be issued clothing and bedding as specified in Articles 13 and 14 of these regulations and shall not be deprived of them through any portion of the day except that those inmates who engage in the destruction of bedding or clothing may be deprived of such articles. The decision to deprive inmates of such articles of clothing and bedding shall be reviewed by the facility manager or designee during each 24 hour period.
- (3) If after placement in separation, mental health or medical staff determine that an individual has serious mental illness or an intellectual disability, they shall be removed from disciplinary separation immediately upon this determination.

(b) Penal Code Section 4019.5 expressly prohibits the delegation of authority to any inmate or group of inmates to exercise the right of punishment over any other inmate or group of inmates.

(c) In no case shall a safety cell, as specified in Title 24, Part 2, 1231.2.5, or any restraint device be used for disciplinary purposes.

(d) No inmate may be deprived of the implements necessary to maintain an acceptable level of personal hygiene as specified in Section 1265 of these regulations.

(e) Food shall not be withheld as a disciplinary measure.

~~(f) The disciplinary separation diet described in section 1247 of these regulations shall only be utilized for major violations of institutional rules.~~

~~(1) In addition to the provisions of Section 1247, the facility manager shall approve the initial placement on the disciplinary separation diet and ensure that medical staff is notified.~~

~~(2) In consultation with medical care staff, the facility manager shall approve any continuation on that diet every 72 hours after the initial placement.~~

All diets must conform to the standards provided in Sections 1240-1246.

(g) Correspondence privileges shall not be withheld except in cases where the inmate has violated correspondence regulations, in which case correspondence may be suspended for no longer than 72 hours, without the review and approval of the facility manager.

(h) In no case shall access to courts and legal counsel be suspended as a disciplinary measure.

§ 1240. Frequency of Serving.

In Temporary Holding, Type I, II, and III facilities, and those Type IV facilities where food is served, food shall be served three times in any 24-hour period. At least ~~one~~ two of these meals shall include hot food. The protein group of at least one meal per 24-hour period shall be served hot. The vegetable group of at least one hot meal per 24-hour period shall be served hot. For all hot meals, the hot food requirement shall not be fulfilled by the addition of hot water.

Supplemental food must be served to inmates if more than 14-8 hours pass between meals. Additionally, supplemental food must be served to inmates on medical diets in less than a 14-8-hour period if prescribed by the responsible physician.

A minimum of ~~fifteen~~ thirty minutes shall be allowed for the actual consumption of each meal except for those inmates on medical diets where the responsible physician has prescribed additional time.

Provisions shall be made for inmates who may miss a regularly scheduled facility meal. They shall be provided with a substitute meal and beverage, still adhering to the hot meal requirements, and inmates on medical and religious diets shall be provided with their prescribed meal.

§ 1241. Minimum Diet

The minimum diet provided shall be based upon the nutritional and caloric requirements found in the 2011 Dietary Reference Intakes (DRI) of the Food and Nutrition Board, Institute of Medicine of the National Academies, the 2008 California Food Guide, and the 2015-2020 Dietary Guidelines for Americans. Facilities providing religious, vegetarian or medical diets, shall also conform to these nutrition standards. The nutritional requirements for the minimum diet are specified in the following subsections. A daily or weekly average of the food group's requirement is acceptable. A wide variety of food should be served.

(a) Protein Group. Includes beef, veal, lamb, pork, poultry, fish, eggs, cooked dry beans, peas, lentils, nuts, peanut butter and textured vegetable protein (TVP). One serving equals 14 grams or more of protein; the daily requirements shall be equal to three servings (a total of 42 grams per day or 294 grams per week). In addition, there shall be a requirement to serve a fourth serving from the legumes three days a week. [Limit serving processed meats to no more than one serving per week.](#)

(b) Dairy Group. Includes milk (fluid, evaporated or dry; nonfat, 1% or 2% reduced fat, etc.); cheese (cottage, cheddar, etc.); yogurt; ice cream or ice milk; and pudding. A serving is equivalent to 8 oz. of fluid milk and provides at least 250 mg. of calcium. All milk shall be pasteurized and fortified with Vitamins A and D. The daily requirement is three servings. One serving can be from a fortified food containing at least 150 mg. of calcium. For persons 15-17 years of age, or pregnant and lactating women, the requirement is four servings of milk or milk products.

(c) Vegetable-Fruit Group. Includes fresh, frozen, dried and canned vegetables and fruits. One serving equals: 1/2 cup vegetable or fruit; 6 ounces of 100% juice; 1 medium apple, orange, banana, or potato; 1/2 grapefruit; or 1/4 cup dried fruit. The daily requirement of fruits and vegetables shall be five servings. At least one serving shall be from each of the following three categories:

- (1) One serving of a fresh fruit or vegetable per day, or seven (7) servings per week.
- (2) One serving of a Vitamin C source containing 30 mg. or more per day or seven (7) servings per week.
- (3) One serving of a Vitamin A source, fruit or vegetable, containing 200 micrograms Retinal Equivalents (RE) or more per day, or seven servings per week.

(d) Grain Group. Includes bread, rolls, pancakes, sweet rolls, ready-to-eat cereals, cooked cereals, corn bread, pasta, rice, tortillas, etc. and any food item containing whole or enriched

grains. At least three servings from this group must be made with whole grains. The daily requirements shall be a minimum of six servings.

Providing only the minimum servings outlined in this regulation is not sufficient to meet the inmates' caloric requirements. Additional servings from the dairy, vegetable-fruit, and bread-cereal groups must be provided in amounts to meet caloric requirements. Saturated dietary fat should not exceed 10 percent of total calories on a weekly basis. Fat shall be added only in minimum amounts necessary to make the diet palatable. Facility diets shall consider the recommendations and intentions of the 2015-2020 Dietary Guidelines of Americans of reducing overall sugar and sodium levels.

§ 1242. Menus.

Menus in Type II and III facilities, and those Type IV facilities where food is served, shall be planned at least one month in advance of their use. Menus shall be planned to provide a variety of foods, thus preventing repetitive meals. Menus shall be approved by a registered dietitian before being used. [The dietitian shall ensure that the meals meet the nutritional and hot food requirements set forth in Sections 1240 and 1241.](#)

If any meal served varies from the planned menu, the change and reason for the change shall be noted in writing on the menu and/or production sheet. [Each meal served must meet the nutritional and hot food requirements set forth in Sections 1240 and 1241, even if it varies from the planned menu.](#)

Menus, as planned, including changes, shall be evaluated by a registered dietitian at least ~~annually~~ [quarterly](#).

§ 1246. Food Serving and Supervision.

- (a) Policies and procedures shall be developed and implemented to ensure that appropriate work assignments are made and food handlers are adequately supervised.
- (b) Food shall be prepared and served only under the immediate supervision of a staff member.
- (c) Food service shall comply with the applicable California Retail Food Code.
- (d) Meals shall not be served on the floors.
- (e) Meals shall be made accessible for consumption within 5 minutes of service.

§ 1247. Prohibition on Disciplinary Separation Diet.

~~(a) A disciplinary separation diet which is nutritionally balanced may be served to an inmate. No inmate receiving a prescribed medical diet is to be placed on a disciplinary separation diet without review by the responsible physician or pursuant to a written plan approved by the physician. Such a diet shall be served twice in each 24 hour period and shall consist of one half of the loaf (or a minimum of 19 oz. cooked loaf) described below or other equally nutritious diet, along with two slices of whole wheat bread and at least one quart of drinking water if the cell does not have a water supply. The use of disciplinary separation diet shall constitute an exception to the three meal a day standard. Should a facility administrator wish to provide an alternate disciplinary diet, such a diet shall be submitted to the Board for approval.~~

~~(b) The disciplinary diet loaf shall consist of the following: 2-1/2 oz. nonfat dry milk 4-1/2 oz. raw grated potato 3 oz. raw carrots, chopped or grated fine 1-1/2 oz. tomato juice or puree 4-1/2 oz. raw cabbage, chopped fine 7 oz. lean ground beef, turkey or rehydrated, canned, or frozen Textured Vegetable Protein (TVP) 2-1/2 fl. oz. oil 1-1/2 oz. whole wheat flour 1/4 tsp. salt 4 tsp. raw onion, chopped 1 egg 6 oz. dry red beans, pre-cooked before baking (or 16 oz. canned or cooked red kidney beans) 4 tsp. chili powder~~

~~Shape into a loaf and bake at 350-375 degrees for 50-70 minutes.~~

[Modifications to diets shall not be used for disciplinary reasons. All meals shall be nutritionally balanced and conform to the standards provided in Sections 1240-1246.](#)

Notes:

Title 15 describes the “disciplinary segregation diet” as a “punitive action” (§1081(b)(3)). While disciplinary segregation itself may be permissible under *Bell v. Wolfish* standards, the modification of minimum diets through the imposition of “disciplinary segregation diets” goes beyond the institution’s interest in maintaining jail security and may constitute unconstitutional punishment under the Fifth Amendment (441 U.S. 520, 540 (1979)). In the context of the prison system, the use of nutraloaf has also faced Eighth Amendment challenges. (See generally, Alexander Spanos, “The Eighth Amendment and Nutraloaf: A Recipe for Disaster,” 30 *Journal of Contemporary Health Law & Policy* 222 (2014) <https://scholarship.law.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1011&context=jchlp>).

Even if it is not unconstitutional to serve disciplinary meals, there is strong evidence that it is not considered a best practice for the industry. The American Correctional Association discourages using food as a disciplinary measure. (Kalisa Mora, “Would You Eat This: Why Should They?” *University of Cincinnati Law Review*, June 14, 2017, <https://uclawreview.org/2017/06/14/would-you-eat-this-why-should-they/>). States across the nation have stopped using nutraloaf, and California state prisons have already eliminated its use.

(See Christopher Zoukis, “Use of Nutraloaf on the Decline in U.S. Prisons,” Prison Legal News, April 2016, <https://www.prisonlegalnews.org/news/2016/mar/31/use-nutraloaf-decline-us-prisons/>).

§ 1260. Standard Institutional Clothing.

The standard issue of climatically suitable clothing to inmates held after arraignment in all but Court Holding, Temporary Holding and Type IV facilities shall include, but not be limited to:

- (a) clean socks and footwear;
- (b) clean outer garments; and,
- (c) clean undergarments;
 - (1) ~~for males—shorts and undershirt~~ shorts or two pairs of panties, and
 - (2) ~~for females—bra and two pairs of panties~~ bra or undershirt.

Within each category, individuals shall be able to select the garment type more compatible with their gender identity and gender expression.

The inmate's personal undergarments and footwear may be substituted for the institutional undergarments and footwear specified in this regulation. This option notwithstanding, the facility has the primary responsibility to provide the personal undergarments and footwear.

Clothing shall be reasonably clean, fitted, durable, easily laundered and repaired.

Resource:

National Center for Transgender Equality, Policies to Increase Safety and Respect for Transgender Prisoners: A Guide for Agencies and Advocates, October 2018, at 38, <https://transequality.org/sites/default/files/docs/resources/PoliciestoIncreaseSafetyandRespectforTransgenderPrisoners.pdf> (“A strong policy should allow transgender prisoners to receive, purchase, and possess clothing items (not just undergarments) and other personal items that prisoners with the same gender identity are permitted to receive, purchase and possess regardless of where the prisoner is housed. While some facilities make access to these items dependent on a medical diagnosis or approval by medical staff, a simpler and better policy is to make them equally available either to all prisoners identified as transgender, or to any prisoner who requests them”).

§ 1270. Standard Bedding and Linen Issue.

The standard issue of clean suitable bedding and linens, for each inmate entering a living area who is expected to remain overnight, shall include, but not be limited to:

- (a) one serviceable mattress which meets the requirements of Section 1272 of these regulations;
- (b) one mattress cover or one sheet;
- (c) one towel; and,
- (d) one blanket or more depending upon climatic conditions.

Two blankets or sleep bag may be issued in place of one mattress cover or one sheet at the request of the incarcerated person.

Temporary Holding facilities which hold persons longer than 12 hours shall provide an inmate with the requirements of (a), (b) and (d) above prior to their first night in the facility and every night thereafter.

Type I, II, III, and IV facilities must provide an inmate with the requirements of (a), (b), (c), and (d) above prior to their first night in the facility and every night thereafter.

If an inmate does not receive the requirements outlined in (a), (b), and (d) prior to their first night in a Temporary Holding, Type I, Type II, Type III, or Type IV facility or for any night during their stay in that facility, facility personnel must record the inmate's name, booking number, the date, and the reason why they did not receive the outlined requirements.

Notes:

The ACLU of Southern California is the court-ordered monitor of conditions within Los Angeles County jails. On hotlines set up to hear directly from incarcerated individuals, we regularly receive complaints from people that have not received mattresses for multiple days after their arrival, and at times during their incarceration, due to movement between dorms or facilities. The language used in the current regulation does not clarify that one must receive their mattress and linens prior to their first time sleeping in a facility and that if this fails to occur, it must be recorded. The language does not specify that each person must have a mattress and bedding every night they are sleeping at a facility. The proposed language ensures that Title 15 requires a mattress and bedding before the first night of sleep and for each night thereafter. A reporting requirement will promote adherence to this requirement.

See *Rutherford v. Block*, 2005 WL 3388141 (C.D.Cal. Nov. 18, 2005) (“all incarcerated persons who are housed overnight must have a mattress and a bunk to sleep on,” “all bunks must have full bedding,” and “if an incarcerated person is not afforded a mattress or bunk to sleep on, it must be documented by the Sheriff’s department”).

§ 1231.2.10

Exercise area. An outdoor exercise area or areas must be provided in every Type II and Type III facility. The minimum clear height must be 15 feet (4572 mm) and the minimum number of square feet of surface area will be computed by multiplying 80 percent of maximum rated population by 50 square feet (4.7 m²) and dividing the result by the number of one-hour exercise periods per day. The exercise area must contain or provide free access to a toilet, wash basin, and drinking fountain as provided in Section 1231.3. The exercise area must be equipped with a place for rest, shelter from inclement weather, and exercise equipment. There must be at least one exercise area of not less than 600 square feet (55.7 m²). The design shall facilitate security and supervision appropriate to the level of custody. Type IV facilities shall have an outdoor recreation area or access to community recreation facilities.

Notes:

The ACLU Cal Action proposes the addition of these requirements to the Title 24 definition of an “Exercise Area” to ensure that all incarcerated people have access to a safe outdoor environment as well as sufficient equipment to exercise.

Resource:

Association for the Prevention of Torture, Outdoor Exercise, <https://www.apt.ch/en/knowledge-hub/detention-focus-database/life-prison-regime-and-activities/outdoor-exercise> (“Outdoor areas... should also be fitted with facilities including a place for rest, shelter from inclement weather and some equipment for exercise (for example, an area for ball games)”).