

Religious Programs

1016.1 PURPOSE AND SCOPE

This policy provides guidance regarding the right of inmates to exercise their religion and for evaluating accommodation requests for faith-based religious practices of inmates (15 CCR 1072).

1016.1.1 DEFINITIONS

Definitions related to this policy include:

Compelling government interest - A method for determining the constitutionality of a policy that restricts the practice of a fundamental right. For such a policy to be valid, there must be a compelling government interest, which is necessary or crucial to the mission of the Office, as opposed to something merely preferred, that can be furthered only by the policy under review.

Least restrictive means - A standard imposed by the courts when considering the validity of policies that touch upon constitutional interests. If the Office adopts a policy that restricts a fundamental religious liberty, it must employ the least restrictive measures possible to achieve its goal.

Religious exercise - Any exercise of religion, whether or not it is compelled by, or central to, a system of religious belief. The key is not what a faith requires but whether the practice is included in the inmate's sincerely held religious beliefs.

Substantial burden - For the purposes of this policy, substantial burden means either of the following:

- A restriction or requirement imposed by the Office that places an inmate in a position of having to choose between following the precepts of his/her religion and forfeiting benefits otherwise generally available to other inmates, or having to abandon one of the precepts of his/her religion in order to receive a benefit.
- The Office puts considerable pressure on an inmate to substantially modify his/her behavior in violation of his/her beliefs.

1016.2 POLICY

It is the policy of this office to permit inmates to engage in the lawful practices and observances of their sincerely held religious beliefs consistent with the legitimate governmental objectives of the facility.

1016.3 STAFF RESPONSIBILITIES

Staff shall not show favoritism or preference to any religion and will not discriminate or retaliate against any inmate for participating or not participating in any religion or religious practice. Inmates are not required to participate in religious programs or activities.

Facility staff will not allow their personal religious beliefs to influence them in the daily management of the inmate population, particularly as it relates to religious practices.

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1016.4 CHAPLAIN

The Santa Clara County Sheriff's Office shall ensure there is an entity or individual to serve as the chaplain for the facility. The chaplain and volunteer chaplains and staff will not attempt to influence an inmate to change religious preference for faith. The chaplain or authorized designee shall be responsible for assisting the Facility Commanders with supervising, planning, directing and coordinating religious programs. Chaplain duties include, but not limited to:

- (a) Coordinating religious services.
- (b) Maintaining a list of approved items.
- (c) Reviewing requests for religious accommodations.
- (d) Providing or arranging for grief counseling for inmates.
- (e) Distributing a variety of religious texts.
- (f) Developing and maintaining a liaison with a variety of religious faiths in the community.
- (g) Making reasonable efforts to enlist religious leaders from outside the community as necessary.
- (h) Seeking donations for religious programs from the community, when appropriate.
- (i) Working with inmate families when requested.
- (j) Providing guidance to the Sheriff and the Facility Commander on issues related to religious observance.
- (k) Reviewing requests for religious diets.
- (l) Providing religious items necessary for worship.
- (m) Providing inmates with information on how to get married in the jail but shall not perform any marriage ceremony.

The Chaplain will have access to all areas of the jail limited only by safety and security concerns.

Under direction of the Chaplain, volunteers and contract employees may be used to enhance the religious programs and services provided to inmates and will be given access to the jail. All volunteers or contract employees must receive a security clearance through the Office's Security Clearance Coordinator prior to being allowed access to the jail and shall wear a Visitor's Clearance Pass while in any of the facilities.

1016.5 RELIGIOUS BELIEFS AND ACCOMMODATION REQUESTS

Inmates are not required to identify or express a religious belief.

All requests for accommodation of religious practices shall be treated equally, regardless of the religion that is involved. Equal and consistent treatment of all religions and religious beliefs shall not always require that all inmates of the same religion receive the same accommodations.

Inmates seeking to engage in religious practices shall submit an Inmate Request Form. All requests for religious accommodation received by custody staff shall be immediately forwarded to the chaplain or designee to prevent unnecessary delay.

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The chaplain or designee will evaluate the request and approve any request that is on the list of previously approved items or practices.

If the request seeks an accommodation that is not on the approved list of accommodations and the chaplain believes that the request is an appropriate religious accommodation, the chaplain will consult with Facility Commander or authorized designee before authorizing the item.

The chaplain or designee shall document all approved accommodations. The chaplain or designee shall make any necessary notifications to staff as necessary to meet an approved accommodation. The chaplain or authorized designee shall provide the inmate with documentation of the approval and a wristband, which signifies that the individual has a religious accommodation.

Requests should be denied only if the denial or reason for denial would further a compelling interest of the facility and is the least restrictive means of furthering that compelling interest. If the individual has medical or mental health condition and the requested religious accommodation presents a potential for self-harm, the Facility Commander or authorized designee shall consult with Adult Custody Health Services (ACHS) staff. The accommodation shall only be denied for this reason, if ACHS staff advise that the accommodation presents a risk to the patient's health or safety. If an item is denied, the chaplain or authorized designee shall provide written notice to the inmate of the reason for denial and the opportunity to file grievance. The approval or denial shall be documented, and a record of that determination placed in the inmate's classification file.

1016.5.1 SUSPENSION OR REVOCATION OF ACCOMMODATIONS

In an emergency or extended disruption of normal facility operations, the Facility Commander or authorized designee may suspend any religious accommodation for the time period necessary to address the emergency or extended disruption. The Facility Commander or authorized designee may also revoke or modify an approved religious accommodation if the accommodated inmate violates the terms or conditions under which the accommodation was granted. The Facility Commander or authorized designee should document the reason in an incident report.

1016.5.2 GRIEVANCE OF SUSPENSION OR REVOCATION OF ACCOMMODATIONS

Inmates may file a grievance regarding religious accommodation and pursue an appeal through the grievance process.

1016.6 DIETS AND MEAL SERVICE

The Facility Commander or authorized designee shall provide inmates requesting a religious diet (e.g., Kosher, Halal, vegetarian), a reasonable and equitable opportunity to observe their religious dietary practice. Religious diet requests also encompass requests relating to fasting or restrictions related to specific periods of religious observation (e.g., fasting during Ramadan). Religious diet requests should be accommodated consistent with the security and orderly management of the facility. The chaplain shall provide a list of inmates authorized to receive religious diets to the food services manager. The food services manager shall establish a process for managing religious meal accommodations.

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1016.7 HAIRSTYLES AND GROOMING

Unless it is necessary for the health and sanitation of the facility, inmates who wear head and facial hair in the observance of their religion will generally not be required to shave or cut their hair.

Any inmate whose appearance is substantially altered due to changes in facial hair or hair length may be required to submit to additional identification photographs.

1016.8 RELIGIOUS TEXTS AND PUBLICATIONS

Inmates are entitled to possess religious texts. Religious texts and publications included, but are not limited to, primary religious texts, such as the Bible, Quran, or Torah, and devotionals, pamphlets, and periodicals. The Facility will make a good-faith effort to carry the more common religious texts and publications. Inmates shall not be denied access to religious texts and publications that are sent to them from third parties, subject to Section 1016.5.

1016.9 UNAUTHORIZED PRACTICES OR MATERIAL

The following list, which is not intended to be exhaustive, includes materials or practices that shall not be authorized:

- (a) Animal sacrifice
- (b) Language or behaviors that could reasonably be construed as presenting a threat to facility safety or security
- (c) Self-mutilation
- (d) Use, display or possession of weapons
- (e) Self-defense or military training
- (f) Disparagement of other religions
- (g) Nudity or sexual acts
- (h) Profanity
- (i) Consumption of alcohol, illegal substances or controlled substances without a prescription

1016.10 GROUP RELIGIOUS SERVICES

The Facility shall allow inmates of the same faith to congregate for religious services consistent with/within the inmates' housing assignment and other concerns that may adversely affect the order, safety, and security of the Facility.

Alternatives to attendance of group religious services may include, but are not limited to:

- The provision of religious books and reading materials.
- Access to religious counselors.

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1016.11 RELIGIOUS SYMBOLS AND IMPLEMENTS

Pre-approved religious symbols and implements used in the exercise of religion are generally be allowed unless the symbol or implement poses a threat to the safety and security of the facility. Alternatives to the provision of religious symbols and implements may be considered when security, safety or efficient operations may be jeopardized.

1016.12 RELIGIOUS GARMENTS AND CLOTHING

Inmates who practice a religion that requires particular modes of dress, garments, headgear, etc., other than standard-issue clothing, will be accommodated subject to the compelling government interest in maintaining facility security, including identifying inmates and detecting contraband. Religious garments may only be denied when doing so would be the least restrictive means of achieving these interests. Common examples of religious garments include, but are not limited to, Muslim headscarf (hijab) or cap (kufi), Sikh turban, or Jewish cap (yarmulke/kippah).

1016.12.1 PROHIBITED RELIGIOUS GARMENTS

In order to achieve the compelling governmental interest in the safety and security of the jails and the ability of staff to identify inmates, religious garments that cover substantial portions of the face, including the mouth, nose, and eyes, will not be permitted. Individuals wearing or requesting such garments will be offered a jail-issued head covering that cover the hair, ears, shoulders, and arms as an accommodation.

1016.12.2 INTAKE AND BOOKING

When an inmate wearing a religious garment is brought in for booking, the following steps must be followed:

- (a) Staff shall inform the inmate of the need to search the garment and underlying hair for contraband. Staff must offer the inmate the opportunity to have this search conducted in a private space out of view of members of the opposite gender.
- (b) During the search, staff shall instruct the inmate to remove their religious garment and search the garment and hair for contraband, weapons, and drugs. When an inmate has expressed a desire that this be done in private, this search will be conducted in a private area by staff of the same gender out of view of members of the opposite gender.
- (c) Following the search, staff shall return the religious garment to the inmate if inmate will be cited and released. If the inmate will be housed at the jail, staff shall provide the inmate with a jail-issued garment (e.g., jail-issued head scarf).
- (d) The inmate's personal religious garment will be stored with their personal property for return upon release from custody.
- (e) If a jail-issued garment is unavailable, the inmate will be permitted to retain their personal religious garment unless the removal is approved by Facility Commander or authorized designee.

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- (f) If an inmate's religion requires that their arms and legs be covered, they will be provided access to jail-issued garments that fully cover their arms and legs (e.g., thermals).
- (g) The inmate will be permitted to wear the religious garment for the remainder of the booking process.

1016.12.3 BOOKING PHOTOGRAPHS

Inmates will be allowed to take the booking photo while wearing a religious garment, provided that the garment does not obscure the individual's face. To the extent that the religious garment is covering the individual's face, staff shall request that the inmate adjust/reposition the religious garment so that only the inmate's ears and hair are covered during the booking photo.

1016.12.4 SAFETY AND SECURITY CONCERNS DURING BOOKING

If, during the intake process, ACHS staff determines that an inmate may harm themselves or others using the religious garment (e.g., suicidal ideation, past attempts at suicide) the religious garment may be denied but only for as long as necessary to keep the inmate safe. The denial of a religious garment shall be documented in classification file. If a religious garment is denied or removed, staff shall take measures to minimize inmate's interaction with staff of the opposite gender consistent with safety and security.

1016.12.5 IN-CUSTODY WEARING OF RELIGIOUS GARMENT

An inmate may request a religious garment using an Inmate Request Form. Inmates wearing religious garments as part of the exercise of their religious beliefs will be permitted to do so at all times while in custody unless doing so conflicts with a compelling interest in the safety and security of the jail, inmates, and staff.

1016.12.6 SEARCHES OF RELIGIOUS GARMENTS

Except in exigent circumstances, prior to conducting a search that would require the inmate to remove their religious garment, staff must offer the inmate the opportunity to have the search conducted in a private space out of the view of persons of the opposite gender.

1016.12.7 GROUNDS FOR CONFISCATION OF RELIGIOUS GARMENT

A religious garment may be confiscated if an inmate uses it in a manner inconsistent with its purpose, or in a way that presents a security threat, or if its continued use presents a safety threat. If staff confiscate a religious garment for this reason, staff must prepare an employee report detailing the reasons for confiscation to the Facility Commander or Assistant Facility Commander. The chaplain shall be notified of the confiscation.

The Facility Commander or Assistant Facility Commander shall conduct an individualized assessment. Where the individual presents a risk of self-harm, removal of the garment shall be based on information provided by ACHS staff.

If feasible, staff should consider minimizing the inmate's interaction with persons of the opposite gender during the time when a religious garment is confiscated.

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The Watch Commander or authorized designee will review the decision to confiscate a religious garment on a periodic basis to determine whether the inmate may be re-issued a religious garment without risking the safety of self or others.

1016.13 RELIGIOUS COUNSELING

Inmates may request religious counseling from the chaplain or religious volunteers. Inmates who should be reasonably accommodated, including reasonable access to clergy members and spiritual advisers, volunteer religious organizations, faith- and morals-based programs and other secular volunteer programs. No inmate shall be required to participate in any such program.

1016.14 SPACE AND EQUIPMENT FOR RELIGIOUS OBSERVANCES

The Facility Commander shall ensure that there are sufficient facilities and resources for the chaplain to serve the inmate population, including providing access to areas of the facility. Space for group worship will be dictated by the availability of secure areas and the classification status of the inmates to be served. All recognized religious groups should have equal access to the space, equipment and services which the facility normally provides for religious purposes. Additional staff may be provided to supervise large-group activities when approved by the Facility Commander.

1016.15 COMMUNITY RESOURCES

The chaplain may minister his/her particular faith and any other similar faiths to inmates but should also establish contacts with clergy of other faiths who can provide services to inmates of other religious denominations.

Whenever the chaplain is unable to represent or provide faith-based services to an inmate, a religious leader or other volunteer from the community, credentialed by the particular faith, should be sought to help provide services. All individuals providing faith-based services should be supervised by the chaplain.

Volunteers are another valuable resource that could be utilized extensively in the delivery of the religious program. The chaplain or the authorized designee shall ensure that religious personnel who provide programming in the facility possess the required credentials and have the security clearance to enter the facility.

The chaplain, in cooperation with the Facility Commander, shall develop and maintain communication with faith communities. The chaplain shall review and coordinate with the Facility Commander or the authorized designee regarding offers to donate equipment or materials for use in the religious programs.

1016.16 TRAINING

The Office shall provide training to facility staff on the requirements of this policy.

The Office shall also provide training in safety and security to the chaplain. The chaplain shall approve and train clergy and religious volunteers. This includes the preparation of a training curriculum, as well as the development and maintenance of training records.

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