

NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE	CHAPTER <u>Enforcement Operations</u> STATEMENT NUMBER <u>5.25</u>
SUBJECT: PROCESSING SPOT, DISCIPLINARY, INCIDENT & INTELLIGENCE REPORTS PROPONENT: <u>Colin Forbes</u> <i>Name/Title</i> <u>Commissioner's Office</u> <i>Office</i>	EFFECTIVE DATE <u>10/25/10</u> REVIEW DATE <u>10/25/11</u> SUPERSEDES PPD# <u>5.25 & 5.21</u> DATED <u>09/15/09</u> <u>08/15/01</u>
ISSUING OFFICER: <hr/> <i>William Wrenn, Commissioner</i>	DIRECTOR'S INITIALS: _____ DATE: _____ APPENDIX ATTACHED: YES _____ NO _____
REFERENCE NO: See reference section on last page of PPD.	

I. PURPOSE:

To establish procedures governing the processing of inmate rule violations and incident reports at all Department of Corrections' facilities and those inmates in the community on Administrative Home Confinement (AHC).

II. APPLICABILITY:

To all staff and inmates.

III. POLICY:

It is the policy of the Department of Corrections to require all staff to report any and all occurrences of intelligence interest and incidents of inmate misconduct by writing a thorough, accurate, concise and timely report.

IV. PROCEDURES:

A. Reporting Formats:

1. The Spot Report is a form that is carried by on-line staff members. A staff member writes this report when an inmate conducts themselves either favorably or unfavorably, in a manner worthy of note. Positive spot reports will be given when an inmate performs a worthy act. For instance, they volunteer to clean up an area and do a good job, do especially well on a work or school project, work "overtime" on a job, or in some way bring credit upon them. It falls between oral praise and a special letter of commendation. A negative spot report will be written for specific acts or omissions which are negative or unfavorable. For instance, the inmate fails to comply quickly with staff instructions or is in an improper place, is loud or boisterous, engages in forbidden horseplay, or fails to do something they are supposed to do. The negative spot report falls between an oral reprimand and a disciplinary report. Both positive and negative spot reports are kept in the inmate's Unit File and will be reviewed for classification and disciplinary purposes. Positive spot reports may have a positive effect on the Board's decision to move the inmate through the system.
2. Disciplinary Reports are submitted by staff members to report disciplinary infractions on the part of inmates who fail to follow the rules and an oral counseling session or a negative spot report is considered inadequate due to the importance, severity, or repetitiveness of the violation.
3. Incident Reports are written to report an event or observation relating to an event that has been observed or overheard by a staff member that should be reported. Incident reports may or may not involve violations by either staff or inmates. They simply report an occurrence/incident. All staff are required to submit incident reports whenever they have knowledge of an occurrence/ incident that is noteworthy and at variance with the ordinary routine. In some cases, a disciplinary report

that is dropped, reduced to a spot report or where the inmate is found not guilty may contain facts that could be reported in an incident report. The disciplinary report form may then be kept as an incident report.

4. Intelligence Reports are like incident reports except there need be no event. Intelligence reports will be submitted when a staff member overhears or observes anything that seems to be noteworthy and out of the ordinary or unusual. This report, together with other reports, might provide information of value to security. Examples would be unusual groupings of inmates, a change in tone, atmosphere or tension, an unexplained change in relationship among inmates or among inmates and staff or other strange or unusual behavior. All staff are required to submit such reports whenever appropriate.
- B. Incident reports and intelligence information processing:
1. Incident reports and intelligence information shall be transmitted to the Shift Commander immediately following the circumstances. They should be turned in before the end of the shift (before the reporting staff member reports off duty and leaves for the day). Special exceptions as to the transmittal requirement can be made if the incident occurred at a transitional housing unit.
 - a. Transitional housing unit reports may be via fax, e-mail or the telephone.
 2. The Shift Commander on duty shall:
 - a. Check all reports to ensure they are accurate, legible and complete.
 - b. Determine whether immediate or subsequent action is necessary. Take action as necessary.
 - c. Have inaccurate, illegible and/or incomplete reports corrected before the reporting staff member goes off-duty and leaves for the day.
 3. All completed reports will be submitted to the 3rd Shift Commander's Office. The 3rd Shift Commander will compile and deliver all reports to the Security Operations Office between 0645 and 0700 every day.
 4. The Security's Operations Office will review and disseminate all incident reports and intelligence information as necessary, including:
 - a. Facility Supervisor
 - b. Bureau of Investigations
 - c. Other Divisions or Bureaus as appropriate.
 5. Responsible staff members will take appropriate action in response to information that is the subject of incident reports and intelligence reports forwarded to their attention.
- C. Report of Instances of Punishable Conduct:
1. Staff members are required to prepare reports when they have reason to believe that an inmate has engaged in punishable conduct. This may be done in one of two ways: the staff member may serve the inmate with a "Negative Spot Report", or a disciplinary report may be submitted to the Unit Manager/Captain/designee of the inmate's living unit.
 2. If it is believed that anyone has committed a crime, the case will be referred to the State Police for investigation through the Director of Professional Standards.
 3. Disciplinary reports filed by staff members in a prison facility shall be processed in the following manner:
 - a. Disciplinary reports will be completed in detail by the reporting officer and submitted for review and investigation.
 - b. The Shift Commander shall be notified of any major infractions that occurred on their shift immediately following the incident, but in any event before the end of the shift. Disciplinary Reports shall be completed before the reporting staff member goes off duty or leaves for the day. Exceptions can be approved by the Shift Commander for unusual circumstances or for offenses that occur at the end of a shift and filing the report will require that the reporting staff member stay late to do so. Examples of unusual circumstances are a disturbance, and serious or complicated events or an investigation when there is an unknown subject. The Hearings Officer may grant an extension for good cause.
 - c. The Unit Supervisor receiving the report shall ensure that a review is begun within twenty-four (24) hours of the infraction, except in unusual circumstances. The review will ensure that the report is well written and answers the basic questions of who, what, when, where, how and why.
 - d. The supervisor (Sergeant or above) assigned to investigate the violation will determine if the inmate is listed as having a Serious and Persistent Mental Illness (SPMI) via "Alerts" in CORIS.
 - e. If the inmate is not listed as having a SPMI the investigation supervisor will proceed to (g) below.
 - f. If the inmate is listed as having a SPMI, the supervisor will contact the designated mental health professional (attachment 5) who will review the incident within 72 hours and

determine if the actions that resulted in the disciplinary report were proximate to the SPMI, or if the actions were behavioral in nature. If it is determined that the inmate's actions were due to the SPMI, the mental health professional will at that time make recommendations as to how to proceed via the *Mental Health Consultation to Disciplinary Process* form. If it is determined that the inmate's actions were behavioral in nature, the investigation officer will proceed as noted in (g) considering any recommendations made by the mental health staff. Once completed by mental health staff, the *Mental Health Consultation to Disciplinary Process* form will be provided to the unit supervisor and made a permanent attachment to the disciplinary report.

- g. The supervisor investigating the disciplinary report will contact the inmate(s) involved and will ask them to provide statements relating to their version of the events. The investigating officer must not be one of the witnesses to the act or acts which is the subject of the disciplinary report.
- h. At a minimum, the Unit Lieutenant for "A" offenses and Sergeant for "B" and "C" offenses is authorized to accept a guilty plea and award punishment at this stage in the proceedings for those inmates who elect to plead guilty to the charges. Any investigator from the Bureau of Investigations may accept a guilty plea and award punishment for "A" offenses. The inmate must sign the discipline report form in the proper place (in Section 10), waive the hearing and right to appeal, and accept offered punishments. If the inmate chooses this option, the form will be filled out accordingly and sent to the facility's Chief of Security/designee for processing. Awarded punishment begins immediately unless the staff member accepting the plea directs otherwise.
- i. All pleas shall be reviewed and approved by the facility's Chief of Security/designee. The facility's Chief of Security/designee shall ensure that such pleas are given voluntarily, knowingly and intelligently.
- j. With regard to "B" and "C" level disciplinaries only, a Unit Sergeant may accept guilty pleas and award punishment. Any investigator from the Bureau of Investigations may accept any guilty plea and award any punishment authorized for "B" offenses.
- k. The Chief of Security is not obligated to accept any unit level guilty plea and subsequent sanctions and may reject guilty pleas for cause. Rejected guilty pleas will be sent back to the investigator with recommendations from the Chief of Security and the inmate will be given the opportunity to renegotiate or withdraw their plea.
- l. The facility Chief of Security may for cause upgrade a minor "B" violation to an "A" level offense. Documentation justifying the upgrade must be available to the Warden and Commissioner during the appeals process.
- m. When no guilty plea is negotiated, the investigating Lieutenant for an A offense or Sergeant for a B and C offenses, will obtain a list of witnesses from the inmate(s) involved, review the expected testimony from the prospective witnesses, and have them give statements if they can provide information relative to the incident. Staff witnesses or reporting officers will not accept pleas or act as the prosecutor in this situation.
- n. The investigating Lieutenant or Sergeant shall ensure that evidence is safeguarded, tested if appropriate, and properly identified.
- o. After having completed the preliminary investigation, the investigating officer shall make a written recommendation to the facility's Chief of Security/designee for "A", "B" and "C" offenses. The written recommendation may include:
 - 1) That the case be dropped as not being worthy of further action;
 - 2) That the disciplinary report be reduced to a spot, incident report or reduced to a more appropriate or different level of the offense.
 - 3) That the report be upgraded to a major violation for cause.
 - 4) That the disciplinary report be filed without prejudice (FWOP) for cause. Disciplinary reports that are filed without prejudice may be reintroduced for prosecution up to 60 days after the filing.
 - 5) That the matter be referred to a disciplinary hearing:
 - a) If the recommendation is to refer the matter to a disciplinary hearing, the facility's Chief of Security/designee shall thoughtfully review and decide whether or not to approve.
 - b) Upon approval the facility's Chief of Security/designee shall forward the disciplinary report either:
 - i. To the sending unit or investigations if there is a need for additional investigation;
 - ii. To the Hearings Office to be scheduled for a hearing.

- D. Disciplinary reports for inmates returning from Administrative Home Confinement shall be generated and processed as follows:
1. The probation/parole officer (PPO) will ensure that when an AHC inmate is taken into custody and delivered to a prison facility a disciplinary report is completed by the PPO. R & D staff will review the disciplinary report and forward the report to the Bureau of Investigations for investigation and/or prosecution. The PPO will notify the Shift Commander that they are returning an inmate and the Shift Commander will generate the Pending Administrative Review (PAR) form.
 2. In the event an inmate is taken into custody by another jurisdiction, the State Prison's Bureau of Investigations and Offender Records must be notified by the PPO immediately. A disciplinary report shall be faxed to and the original forwarded to the Bureau of Investigations by the PPO no later than the next business day. The Bureau of Investigations staff will review the faxed copy as required in 3(c) above and annotate that review on the original copy when it arrives.
 3. In the event another agency delivers the inmate (such as a police department), the PPO will notify the Shift Commander that the agency will be returning the inmate and the Shift Commander will complete the PAR form. A disciplinary report will be completed by the PPO and forwarded to the Bureau of Investigations. The Bureau of Investigations staff shall commence the disciplinary investigation process as stated in 3(c) above.
 4. The PPO shall be notified if the inmate pleads not guilty, at which time the PPO will be responsible to obtain witnesses, if applicable, and be prepared to present a case at the disciplinary hearing, if necessary.
- E. Disciplinary reports left unprocessed at a facility due to an inmate moving to another facility will be returned to the local Hearings Office where the reports will be logged, an extension granted and the report(s) forwarded to the appropriate facility's Hearings Office by the local hearings staff. The receiving facility hearings staff will arrange for further processing.
- F. Hearings:
1. All disciplinary reports will be forwarded to the facility's Chief of Security/designee for approval and then to the Hearings Office within ten working days for inmates identified as having a SMPI, and seven working days of the infraction date for all other inmates. The Hearings Officer may grant an exception to this requirement for good cause. The Hearings Officer shall review such reports and is authorized to reject reports, sending them back to the Unit Manager/Captain/designee with recommendations. Those recommendations may include dismissing the charges, requesting further clarification/ investigation, or reducing to a negative spot report.
 2. In the case of a rejection of the disciplinary report, the Unit Manager/Captain may comply with the recommendations or forward the matter back to the Hearings Office to schedule a hearing. The Unit Manager/Captain is under no obligation to follow the recommendations of the Hearings Officer and/or modify their position in any way. Unit Managers/Captains who believe that such recommendations are inappropriate may request clarification from the Hearings Office or Director of Professional Standards.
 3. Once the Hearings Officer has accepted the disciplinary, a hearing will be scheduled and the inmate is notified of the charges against them.
 4. In cases where a report is referred for a hearing, the Hearings Office will schedule a hearing as soon as practicable, within seven days of receiving the disciplinary report, excluding weekends and holidays. Notification of hearings will not be accomplished until allegations are investigated, reviewed, recommended, and approved. Hearings Officers may postpone or grant a continuance of a hearing for a reasonable period of time for good cause. The inmate shall be notified in writing of the date and time of the hearing at least twenty-four hours before the hearing is held. Such notice shall include a copy of the charges.
 5. Inmates are responsible for providing the Prosecutor or Hearings Office with a list of requested witnesses at least twenty-four hours in advance of the hearing. The Hearings Officer is not required to hear testimony or accept evidence that is irrelevant, unnecessary, cumulative, or untimely. Witnesses may also be excluded for institutional safety or correctional goals. Failure to request a witness in a timely manner is also a reason to deny the witness. The Hearings Officer may rule as to whether or not to accept evidence, and their decision to exclude evidence will be final. The reasons for denying the request will be stated in writing and on the record. The Hearings Officer may require offers of proof of testimony and can accept offers of proof as evidence. Personal attendance is not required except where testimony or evidence is in dispute.
 6. An inmate may request that an attorney attend the disciplinary hearing. Such requests must be in writing to the Hearings Officer and received at least twenty-four (24) hours prior to the hearing. The attorney acts only as an observer and may not speak during the hearing. The inmate must prepare and present their own case. Any disruption by the attorney may result in removal from the hearing. Any conversations between the inmate and attorney should take place at an approved

- attorney-client visit, not at the hearing. Normally the hearing will not be continued to accommodate the inmate's attorney.
7. Since the hearing is non-adversarial in nature, advocates for the inmate are generally not permitted. If requested, a staff member will be appointed by the Warden with the Hearings Officer's recommendation to assist inmates at disciplinary hearings. If it is apparent that an inmate is not capable of preparing for their own defense and presenting evidence effectively on their own behalf, the Warden, with the Hearings Officer's recommendation, will appoint a staff member to assist the inmate.
 8. Disciplinary hearings will be conducted before a one-officer board. At the conclusion of the hearing, the Hearings Officer shall render a decision. The written decision of the Hearings Officer shall state the evidence relied upon and the reasons for the disciplinary action taken. If any discretionary decisions are made (for example, if witnesses are excluded) the reasons for the decision regarding such discretion shall be also in writing. The written record of a guilty finding will be maintained in the inmate's Offender Record.
 9. The accused will be present during the hearing unless their conduct justifies exclusion or they refuse to be present or waive that right in writing. Inmates will be excluded during testimony of any witness whose testimony must be given in confidence. The reason for the exclusion or absence will be recorded in the proceedings record.
 10. Inmates will be permitted to make statements and present evidence. Inmates will also be allowed to examine witnesses, except in circumstances where a witness's testimony was given in camera. Witnesses who testify against the inmate may be cross-examined by the inmate through the Hearings Officer (that is to say, the inmate directs questions to the Hearings Officer, who then asks it or a similar question of the witness).
 11. Disciplinary hearings involving "A" level offenses will be recorded. A failure of the recording will not invalidate the hearing results. A taped recording will be maintained for at least six (6) months. The disciplinary reports and hearing results relating to a guilty plea or finding shall be maintained within the inmate's Offender Record. Inmates have the right to obtain a copy of the tape of recorded major disciplinary proceedings. The inmate must provide a sealed blank tape sent to the Hearings Office by an outside source. The Hearings Office will make a copy and see that it is delivered to the inmate. A fee of \$5.00 will be charged for this service.
 12. The Hearings Officer will elicit all relevant facts and law, and provide a record of the proceedings. The record should reflect the decision and the reasons behind the decision.
 13. The prosecutor of major disciplinary hearings will either be an Investigator from the Department of Corrections or a Lieutenant or above from the current duty roster. This prosecutor will present the case for the state against the inmate.
 14. When a disciplinary decision is based on confidential informant information, the Hearings Officer shall document, ordinarily in the hearing report, the finding as to the reliability of each confidential informant relied on and the factual basis for that finding. Reliability factors include frequency with which the informant has provided information in the past; the length of time over which the informant has provided information; and the informant's record for accuracy and reputation for honesty, and other facts that tend to show truth. When it appears that this documentation in the report would reveal the confidential informant's identity, the information shall be made part of the hearing record in a separate report and not available to the inmate.
 15. The Hearings Officer's decision will be based solely upon information obtained in the hearing process that may include staff reports, the statements of the inmate charged and evidence derived from witnesses and documents. The Hearings Officer will reach the decision in closed session. If the finding is guilty, the inmate will be informed of the decision and allowed to present matters of extenuation or mitigation before being sentenced. The Hearings Officer will inform the inmate of the punishment when a punishment has been decided. The Hearings Officer may lower the severity of the charge if the evidence presented does not support the original charge.
 16. The Hearings Officer may interrupt the hearing to obtain additional data, evidence, testimony or other material to ensure that fundamental fairness is achieved. While such additional material will normally be introduced at a reopened hearing, some evidence (particularly in cases involving in-camera testimony) may be taken in-camera or at other locations. Because some cases may fail or succeed based on witness' credibility, the Hearings Officer must take appropriate precautions to ensure veracity of critical witnesses.
 17. If restitution is required, a copy of the disciplinary report will also be furnished to the Inmate Accounts Office, which will debit the inmate's account in accordance with instructions from the Director of Administration. Inmate Accounts staff shall not debit an inmate's account until 30 working days after the Hearings Officer's notification to allow the inmate time to appeal. Where appropriate, the inmate's account will be frozen to prevent emptying the account.

18. In the case of a not-guilty finding, the original disciplinary report shall be destroyed by the Hearings Officer (Some Not-Guilty D-reports may be maintained for ACA purposes, but cannot be looked upon or referred to for any other reason.). In the case of a guilty finding, the original disciplinary report and decision shall be forwarded to the Offender Records Office for inclusion in the inmate's records. A copy of the decision shall be provided to the inmate.
 19. The Hearings Officer may drop the disciplinary report to a Negative Spot, Incident Report or filed without prejudice (FWOP) based upon the facts presented at the hearing. Reports that are filed without prejudice may be reintroduced up to 60 days after the filing.
 20. All disciplinary hearings will be reviewed by the Warden/designee to assure conformity with policy and procedures. They may approve the findings and sentence in whole or part. They may not increase the punishment awarded by the Hearings Officer but may reduce or substitute punishments of equal or lower value.
- G. Right to Appeal:
1. In cases other than guilty pleas, an inmate may appeal the decision (both the finding of guilt and the sentence imposed) of the Hearings Officer. The appeal shall be in writing and shall set forth the specific reasons why the inmate believes the decision of the Hearings Officer was in error. Such appeals will be limited to errors of law and procedure or alleging excessive sanctions imposed. Errors in procedure will not result in a reversal of the disciplinary unless the inmate can demonstrate actual prejudice. Appeals that simply allege a dispute in the factual determinations made by the Hearings Officer will be summarily denied.
 2. All appeals must be submitted to the appealing authority within fifteen (15) working days of the decision.
 3. Appeals regarding "B" and "C" disciplinary hearings shall be made to the facility's Chief of Security. If the inmate is dissatisfied with that decision they may appeal to the Warden. The Warden's decision is final.
 4. Appeals regarding "A" disciplinaries shall be made to the Warden. If the inmate is dissatisfied with the decision of the Warden, they may appeal to the Commissioner. The Commissioner's decision is final.
 5. Appeals received more than fifteen (15) days after a finding of guilty will not be considered. Where possible appeals will be decided within 30 days of their receipt.
- H. Suspended Sentences:
Any board or any person authorized to accept a guilty plea may impose any suspended punishment in addition to the punishment for the new offense for any infraction within the suspension period. Imposition of suspended sentences must be appropriately noted in the Offender Management System (CORIS) to include the case number of the suspended sanction(s) imposed.
- I. Miscellaneous:
1. Inmates will not be placed in disciplinary segregation for a rule violation until after a guilty plea or guilty finding at a hearing. Punitive Segregation as an awarded punishment and like all other punishments begins immediately unless the staff member directs otherwise.
 2. If disciplinary segregation is awarded as punishment, the Hearings Officer or the facility's Chief of Security has the authority, either at the time of their review or at any other time, to reduce the number of days to be served on disciplinary segregation as is appropriate, considering the inmate, the offense and their prior and subsequent behavior.
 3. In cases where punitive segregation is awarded as punishment and there are no punitive segregation cells available, the Hearings Officer will decide if another inmate may be released early from punitive segregation to make room for the current need.
 4. If an inmate is believed to have committed an offense and is deemed to constitute a threat to themselves, others or the institution, or there is reason to believe that evidence will be destroyed or witnesses tampered with, they may be placed in Pending Administrative Review (PAR) status upon approval of the Warden, the facility's Chief of Security or Unit Manager/Captain. Each inmate's status shall be governed under the policies and procedures as set forth in the Classification Manual regarding PAR status. The Warden will review this action within 72 hours. Nothing in this PPD prohibits the promulgation and enforcement of rules unique and specific to one of the units of the NHSP/M, Transitional Housing Units, NHSP/W, NCF, or SPU/RTU, but which are not inconsistent with this policy or its intent.
 5. The disciplinary form as noted in Attachment 1 shall be incorporated herein as part of this PPD.
 6. Disciplinary rule infractions and punishment patterns as noted in Attachment 2 shall be incorporated herein as part of this PPD.
 7. Inmates pleading guilty or being found guilty of drug offenses (27A, 30A or 30.1A) will immediately lose their visiting privileges for a specified period of time and may have their visiting privileges restricted once the visiting privileges are returned. Inmates accused of drug offenses are

to be informed of this and be required to sign acknowledgement of such on attachment 3 of this policy.

8. Inmates pleading guilty or being found guilty of offense 28A will immediately lose their visiting privileges for a specified period of time and may have their visiting privileges restricted once the visiting privileges are returned if there is evidence the alcohol, drug or medication was introduced through visiting. Inmates subject to this sanction will be informed of this and be required to sign acknowledgement of such on attachment 3 of this policy.

REFERENCES:

Standards for the Administration of Correctional Agencies

Second Edition. Standards

2-CO-3C-01

Standards for Adult Correctional Institutions

Fourth Edition Standards

4-4226 thru 4227; 4-4230 thru 4232; 4-4234 thru 4248; 4-4252; 4-4255

Standards for Adult Community Residential Services

Fourth Edition. Standards

4-ACRS-3A-01 to 3A-02; 4-ACRS-6C-01 to 6C-04

Standards for Adult Probation and Parole Field Services

Third Edition. Standards

Other

RSA 622:14

KENCH/nw

Attachments

DISCIPLINARY RULE INFRACTIONS:

Committing any of the following prohibited actions will result in disciplinary action. These acts have been numbered for reference purposes. The order of listing is not an indication of the seriousness of the act. A specific incident may warrant a Hearing, trial in Court or both a Hearing and a trial. The facility’s Chief of Security will determine if disciplinary action is appropriate in matters being pursued for criminal action. Offenses are identified by type of infraction ranging in seriousness from A to C. The following is a table of maximum punishments:

	A	B	C
Loss of disciplinary days	100*	25	0
Disciplinary Segregation Days	15	5	0
Extra Duty Hours	100	25	10
Suspension of Privilege days**	100	25	10

Restitution may be ordered as described in PPD 3.09.
Restitution orders will run consecutively until paid off.

Where applicable, sanctions (imposed or suspended) will run consecutive to any current sanctions unless specifically imposed to run concurrent.

Inmates will not be charged monetary damages, such as the replacement value of destroyed property if the infraction is found to be a proximate result of an inmate’s SPMI.

* Unless the offense is escape or attempted escape charges or a violation which is chargeable as a Class A felony and then it is loss of all disciplinary days in accordance with RSA 651-A:22.

** Privileges may include, but not be limited to: visiting, recreation, telephone, television, canteen, and/or phone.

*** Visiting privileges may be taken for up to 365 days for drug related offences (see PPD 7.09). Additional instances of lost visiting privileges will run consecutive, and will not be considered for concurrent imposition.

Inmates found guilty of missing scheduled in-house medical appointments will be assessed a \$5.00.

Inmates found guilty to missing scheduled outside medical appointments will be charged the amount billed to the Department of Corrections.

These are maximums permitted by one board for one offense which could result in imposition of any combination or all of the punishments authorized for that offense. Other boards or the same board hearing multiple charges may impose aggregated punishments limited by the number of guilty findings. Thus, a major board having found an inmate guilty of one A and one B offense may impose a loss of 125 disciplinary days, 20 days discipline segregation, and 125 days of loss of privileges and extra duty.

Stacking or multiple charges are inappropriate. Normally only one charge should arise from one incident except in cases of continuing conduct or where there is more than one victim.

Repeat offenses increase the severity of B and C offenses so that a specific C type offense repeated within a 90 day period of disposition may become a B offense. A repeated B offense within 90 days of disposition may become an A offense. Repeat offenses may be increased in severity if the person writing the report or investigating the report identifies the earlier violation and its date from the offender's record. Where rules or statutes call for specific punishments (loss of all good time for escape, for instance) those rules or statutes override the maximum punishment table. There are no minimum punishment rules. A person could be found guilty of an infraction and given nothing for punishment.

Any punishment which could have been awarded may be suspended for a specified period not to exceed 180 days for a major board and 90 days for minor board. Any board, or any person authorized to accept a guilty plea, may impose any suspended punishment in addition to the punishment for the new offense for any infraction within the suspension period.

- 1.A. Causing the death of any person.
- 2.A. Causing bodily injury to any person.
- 3.A. Striking any person with one's hands, feet or with any object; or assaulting a staff member.
- 4.B/C. Touching a staff member without his/her permission.
- 5.B/C. Throwing or propelling any object or substance at another person or which may cause property damage.
- 6.B/C. Threatening any person with harm, either to person or property.
- 7.B/C. Fighting, sparring, wrestling, horseplay or any physical encounter which could cause bodily injury.
- 8.B/C. Engaging in any sexual contact with another.
- 9.A. Sexually assaulting any person.
- 10.B/C. Requesting, demanding, threatening or in any way inducing another person to engage in any sexual activity or any other forbidden conduct.
- 11.B/C. Indecent and unnecessary exposure of the genitals, buttocks or female breasts.
- 12.C. Use of abusive, profane or obscene language or gestures.
- 13.B/C. Use of provoking words or gestures which might result in violence.
- 14.B/C. Insubordination or disrespect toward a staff member.
- 15.B/C. Offering or giving personal service, money or anything of value to a staff member or, becoming or attempting to become unduly familiar with a staff member.
- 16.B/C. Offering or giving personal service, money or anything of value to another inmate, his/her family or friends; or accepting anything of value from another inmate, members of his/her family or friends without specific authorization from the Warden. This applies to exchanges between inmates' families and/or friends when the ultimate beneficiary is an inmate in the custody of the New Hampshire Department of Corrections.
- 17.B/C. Extortion, blackmail, protection, racketeering, requesting, demanding or receiving any personal service or money or anything of value under threat; or informing in exchange for protection or any transaction for any other service or consideration not specifically authorized by the Warden or designee.
- 18.A. Individually, or in participation with others, taking or holding any person as a hostage or in any way restraining, holding or confining any person against his/her will.
- 19.B/C. Interfering with or preventing any staff member from carrying out his/her orders, duties or assignments.
- 20.B/C. Participating in or encouraging others to participate in any meeting or gathering which is not specifically authorized by an institutional staff member.
- 21.A. Participating in, or encouraging others to participate in, any group demonstration, disturbance, riot, strike, work stoppage or work slowdown which could disrupt the routine of the institution.
- 22.A. Escaping or attempting to escape from official custody.
- 23.A. Planning an escape.
- 24.A. Possession, manufacture or introduction into the institution of any implement or object which could facilitate an escape.
- 25.A. Possession, manufacture or introduction into the institution of any weapon or object which could be used as a weapon.
- 26.A. Possession, manufacture or introduction into the institution of any flammable, poisonous or explosive material not specifically authorized for the individual by the Warden.
- 27.A. Possession, distribution, manufacture or introduction into the institution of any drug, drug paraphernalia, alcoholic beverage or intoxicant not prescribed for the individual by the medical staff and verified by the individual's medical record, including components for manufacture such as sugar, yeast, etc.
- 28.A. Being under the influence of alcohol, drugs or any intoxicant not prescribed for the individual by the medical staff (any indication of the consumption of alcohol, drugs or other intoxicants; for example, staggering or slurred speech is sufficient to come under the suspicion of this offense).
- 29.B/C. Possessing or use of prescribed medication contrary to the instructions of authorized medical personnel.
- 29.1B/C. "Cheeking" or attempting to conceal medication during medication distribution.
- 30.A. Refusal or substantial delay in furnishing a urine/breath sample upon demand; altering/attempting to alter any sample by providing an adulterated or diluted sample; switching or substituting samples; or having an illicit substance in the blood, breath or urine.
- 30.1A. Producing a diluted or adulterated urine sample.

Note Regarding Diluted Samples:

One diluted sample in a 12 month period with no prior "Dirty" tests, no prior diluted/adulterated tests and absent any other information to support the allegation may not be sufficient to warrant a disciplinary report. However, if there is supporting information, such as reliable informant testimony, investigative information generated from telephone calls, letters, etc, one diluted specimen in conjunction with this information may justify issuance of a disciplinary report. The totality of the circumstances should determine whether any disciplinary report is initiated.

- 31.B/C Failing to stand for count, interfering with the taking of a count or being out of place for count.
- 32.B/C Wearing any mask, wig, disguise or other alteration of one's normal physical appearance which could make ready identification of the individual difficult. Possession of material to construct a mask, wig, disguise or similar item

- 34.A Arson, setting a fire or adding fuel to a fire.
- 35.C Unexcused absence from work or place of assignment (example: absence from a class or medical appointment).
- 36.C Malingering, feigning an illness or any use of deceit to avoid work, school or other assignment or to procure medication or medical assistance.
- 37. Being in an unauthorized area or being out of place.
- A-B-C
- 38.A Tampering with, blocking or rendering inoperative any locking device, door, fire escape, window, screens or air exchanger.
- 39.B/C Failing to obey any written rule, posted notice or procedure of the institution or order of any staff member.
- 39.1 A. Failing to follow direction from any staff during response team activation.
- 40.B/C Failing to perform work or other assignment as ordered by a staff member.
- 41.B/C Use of equipment or machines without proper authorization or contrary to instructions or posted regulations such as those regarding safety hazards.
- 42.A Preventing or interfering with the search of an inmate, his/her cell or his/her property either by the inmate involved or another.
- 43.B/C Conduct which disrupts or interferes with the security or orderly operation of the institution.
- 44.B/C Possession of anything not issued by appropriate authority, authorized in writing or in the inmate manual.
- 45.A Possession of any form of money, securities, negotiable papers, checks, official documents (other than papers or documents relative to judicial or administrative proceedings) or articles of identification unless expressly authorized by the Warden.
- 46.A Possession of jewels and/or precious metal not specifically authorized by the Warden.
- 47.C Possession in one's cell or sleeping area of excessive amounts of goods or materials to a degree that the area presents a cluttered, untidy appearance, restricts or interferes with free movement of person, creates a fire or safety hazard or interferes with officers' visual observation of the cell or sleeping area.
- 48.A Possession of any item of officers' uniform, staff clothing or staff identification, including badges, insignia, buttons, name tags or items of personal identification, or possession of personal information regarding staff such as home address or telephone number.
- 49.C Possession of unauthorized, damaged or altered clothing.
- 50.B/C Possession of property belonging to another person.
- 51.C Possession of state property in amounts in excess of authorized allowances.
- 52.B/C Loaning of property or anything of value.
- 53.B/C Theft by unauthorized taking, by the use of threats, by force or by deception on any item belonging to another.
- 54.B/C Altering, damaging or destroying state property, property belonging to another person or personal property without authority. Possession of altered or damaged property.
- 55.B/C Being a member of a gang or in possession of gang-related material.
- 56.B/C Lying, or providing false or misleading information to a staff member or to persons of authority such as federal officials and state officials.
- 57.A Counterfeiting, manufacturing, reproduction, forgery or possession of any official paper, document, money, negotiable paper or articles of identification without specific permission of the Warden.
- 58.C Failure to properly keep and safeguard state property issued to you.
- 59.C Failure to follow safety or sanitation regulation, including those relating to living spaces, work areas and personal hygiene.
- 60.B/C Possession of any and all tobacco products, possession of any smoking materials (lighter, rolling paper, etc). Possessing more than ½ lb. (8 oz.) of tobacco will be upgraded to a major offense (A).
- 60.1B/C Smoking in areas where smoking is prohibited.
- 61.B Reckless, negligent or careless operation of any tool, machinery, equipment or vehicle.
- 62.B/C Use, handling of or tampering with any piece of safety equipment or any safety device without prior permission of a staff member, except in an emergency when no staff person is present to operate the equipment.
- 63.A Altering, damaging or destroying any part of the electrical system, plumbing, communications or other institutional utilities.
- 64.B/C Tattooing, self-mutilation, self-injury, possession of tattoo paraphernalia, tattoo graphics, designs or piercing paraphernalia

- 65.B/C Gambling of any kind, including betting on any game of chance and preparing or conducting any gambling pool.
- 66.B/C Possession, manufacture or introduction into the institution of gambling paraphernalia or gambling records such as score sheets and debt lists.
- 67.A Violation of any New Hampshire or United States law, Court Order, or regulation.
- 68.B/C Unauthorized use of a telephone, misuse of a telephone or telephoning people who do not desire to be called after being ordered not to do so.
- 69.B Violation of institutional mail regulations as defined in the inmate manual.
- 70.B Correspondence or conduct with a visitor in violation of institutional regulations, or misconduct in the visiting room.
- 72.B/C Failure to satisfactorily perform work assignment which resulted in being terminated from assignment.
- 73. Attempting, aiding, abetting, conspiring or being an accessory, before or after the fact, on A-B-C any violation planned, intended or committed is forbidden and shall be considered the same as the commission of the offense itself. (Example: 73B to 60B – attempting to possess tobacco), or 73A to 76A – Attempting to introduce unauthorized items.
- 74.B/C Inmates are not allowed to conduct a business while incarcerated.
- 75.A Smuggling contraband of any kind (i.e. letters) out of the institution.
- 76.A Introduction or attempted introduction into the institution of any unauthorized items.
- 77.A Resisting detention.
- 78.C Littering or spitting.
- 79.B Loitering



STATE OF NEW HAMPSHIRE
DEPARTMENT OF CORRECTIONS
OFFICE OF THE COMMISSIONER

William L. Wrenn
Commissioner

P.O. BOX 1806
CONCORD, NH 03302-1806

603-271-5610 FAX: 603-271-5643
TDD Access: 1-800-735-2964

Date: _____

To: _____ ID No. _____ Housing: _____

You have been charged with a disciplinary infraction for (check one):

_____ Positive Urine _____ Possession of Drugs _____ Refusal to submit to a urine test

Because of information that the NH DOC has, we are convinced that the vast majority of illegal drugs comes into the prisons through the visiting rooms. It is the presumption of the NH DOC that the drugs you possessed / used came in through a visitor (your visitor or another inmate's visitor). The NH DOC also presumes that your refusal to submit to a drug screening test was because you have used illegal drugs. You, in accordance with your due-process rights, can refute these presumptions.

Unless this presumption that the drugs came in through the visiting room is refuted and the explanation corroborated and verified, you will lose category 2 visitors for a period of one-year and category 1 visitors for thirty days upon pleading guilty or being found guilty of the above noted offense.

Understanding the above: _____ I will plead guilty

_____ I request a hearing

Under the provisions of PPD 7.09 the Warden may place a visitor on non-contact visitation status for the safe and secure operation of the institution. Also, inmates found guilty of the following offenses (27A, 30A or 30.1A) may be subject to non-contact visitation upon completion of sanction requirements imposed through the disciplinary process.

Inmate's Signature

Witness

Date

Date

Forward original copy of this notice with the disciplinary report.

MENTAL HEALTH CONSULTATION TO DISCIPLINARY PROCESS

Staff member with responsibility for investigating the disciplinary report: You must refer the inmate to Mental Health Services if the inmate is listed as having a Serious and Persistent Mental Illness (SMPI)(see Alerts/Concerns under Client Pages in CORIS).

Name of staff member charged with investigating the disciplinary report:

Staff member's work location:

E-mail Address:

Inmate's Name:

ID No.:

Housing Unit:

Date:

The aforementioned inmate has been identified as having a SPMI and I am referring him/her to mental health staff for evaluation / consultation on:

Mental Health staff receiving request for consultation:

Date request for consult received:

Date returned (within 72 hours):

Is the inmate competent to participate in the disciplinary process?

Yes

No

If no, why is the inmate not competent?

Are there mental health issues that may have impacted the inmate's behavior at the time of the charge?

Yes

No

If yes, describe the issues:

If the inmate's behavior was the proximate result of SPMI, should the disciplinary action be dropped?

Yes

No

Are there mental health issues to be considered regarding disposition if the inmate is found guilty?

Yes

No

If yes, briefly describe the issues and possible relation to the disposition:

Are there any alternative sanctions that should be considered in light of the inmate's SPMI if the inmate pleads or is found guilty?

Yes

No

If yes, indicate alternative sanctions that should be considered:

Removal from program

Loss of personal property

Loss of privileges

Change in living unit

Extra Duty

Reprimand

Written Essay regarding infraction

Restitution

Apology

Restriction to Unit

Other (Describe)

Do you or a designee wish to be present during the investigation and/or hearing?
Comment:

Yes

No

Attachment 5

Mental Health Supervisors for Triage of Disciplinary Reports

Rick Fellows – Chief Psychologist Concord Prison

Heidi Guinen – Supervisor VI – Concord Prison/NCF Prison

Kevin Stevenson – SPU/RTU

Nancy Denu – Goffstown Clinical Triage Coordinator

Updated 5/19/2010



NEW HAMPSHIRE DEPARTMENT OF CORRECTIONS



DISCIPLINARY REPORT

1. INFRACTION DATE: _____ TIME: _____ LOCATION: _____
2. REPORTING STAFF (print): _____
3. DETAILS OF EVENT (who, what, where, when, how, and why):

4. INMATES INVOLVED:

	Last	First	M.I.	I.D.		#	Subj	Other*
NAME:					CELL:			
NAME:					CELL:			
NAME:					CELL:			
NAME:					CELL:			

*V - Victim W - Witness

5. STAFF INVOLVED:

NAME:		HOW INVOLVED*	

*V - Victim W - Witness

6. SUBJECT OFFENSE VIOLATION:

Inmate Manual Rule Number(s): 1 _____ 2 _____ 3 _____ 4 _____ 5 _____

7. EVIDENCE STATUS:

SECURED: Yes [] No [] WHERE: Control [] Other: _____

SIGNATURE OF REPORTING STAFF

DATE WRITTEN

HEARINGS CASE NO. _____

SP-48

DOC 030/ Ncf Rev 06-03

PPD 5.25

--1--

PPD 5.25

REVIEWED BY:

Date:		Time:	
-------	--	-------	--

10. INMATE WANTS TO PLEAD GUILTY. THIS SENTENCE IS RECOMMENDED:

NOTE: IF LOSS OF ACCRUED GOOD TIME IS ASSESSED, BRIEFLY STATE REASON. _____

I desire to plead guilty to the charges. I waive the right to a hearing and my right to appeal. I admit to the facts and circumstances as described above.

SIGNATURE OF INMATE: _____ DATE: _____

SIGNATURE OF STAFF MEMBER AUTHORIZED TO ACCEPT GUILTY PLEA:

SIGNATURE: _____ TITLE: _____ DATE: _____

11. MAJOR'S / DESIGNEE ACTION:

A. Recommended action approved.

B. Inmate plea of guilty and Sentence recommended is approved.

C. The following action will be taken: _____

SIGNATURE OF MAJOR / DESIGNEE: _____ DATE: _____

12. CONTINUOUS SPACE: (From section #3)

[] MAJOR [] MINOR

13. INMATE'S FULL NAME AND ID#: _____

14. VIOLATION(S) ALLEGED: (Include charge number and brief description)

15. INMATE PLEAS:	CHARGE #1	[]	GUILTY	[]	NOT GUILTY
	CHARGE #2	[]	GUILTY	[]	NOT GUILTY
	CHARGE #3	[]	GUILTY	[]	NOT GUILTY
	CHARGE #4	[]	GUILTY	[]	NOT GUILTY
	CHARGE #5	[]	GUILTY	[]	NOT GUILTY

16. LIST OF WITNESSES HEARD: (Indicate whether for defense or state and brief summary of testimony):

17. WITNESSES NOT HEARD AND REASON: _____

18. SUMMARY OF OTHER EVIDENCE CONSIDERED: _____

19. FINDINGS:	CHARGE #1	[]	GUILTY	[]	NOT GUILTY
	CHARGE #2	[]	GUILTY	[]	NOT GUILTY
	CHARGE #3	[]	GUILTY	[]	NOT GUILTY
	CHARGE #4	[]	GUILTY	[]	NOT GUILTY
	CHARGE #5	[]	GUILTY	[]	NOT GUILTY

20. EVIDENCE RELIED ON FOR GUILTY FINDINGS: _____

21. SENTENCE: _____

NOTE: IF LOSS OF ACCRUED GOOD TIME IS ASSESSED, BRIEFLY STATE REASON. _____

SUBJECT HAS BEEN INFORMED THAT IF HE/SHE CHOOSES TO APPEAL, THEY MUST DO SO WITHIN FIFTEEN (15) WORKING DAYS, AND THAT APPEALS MUST BE IN WRITING VIA A REQUEST SLIP, ADDRESSED TO THE ADMINISTRATOR OF SECURITY FOR MINOR HEARINGS, OR THE WARDEN FOR MAJOR HEARINGS.

22. SIGNATURE OF HEARINGS OFFICER: _____ DATE: _____

23. SIGNATURE OF MAJOR / DESIGNEE: _____ DATE: _____