

DATE:	FEBRUARY 4, 2013
NUMBER:	O.1
SUBJECT:	DISCIPLINARY ACTION
RELATED SECTIONS:	J.3 , K.27 , N.1 , O.3 , T.9

PURPOSE

To provide a method for bringing an inmate's behavior into compliance with established inmate rules and regulations while establishing a fair and impartial process of review.

POLICY

Any discipline initiated against an inmate shall be impartially imposed without regard to race, sex, gender, or religious beliefs. The discipline shall be progressive and commensurate with the seriousness of the violation while being compared with the behavioral history of the inmate while in custody.

PROCEDURE

I. RULE VIOLATION

- A. Inmate rules and regulations, disciplinary procedures, and grievance procedures in English and Spanish shall be posted in conspicuous locations in all housing units. Staff shall attempt to ensure each inmate is aware of and understands the procedures. If an inmate is illiterate, assistance shall be provided to ensure understanding of the charges and proceedings.
- B. Any staff member may initiate an Incident Report on an inmate who has violated the inmate rules and regulations.
- C. If professional staff witnesses a violation they may contact a sworn staff member. The sworn staff member shall assist in writing the Incident Report.
- D. All Incident Reports documenting rule violations shall include inmates' rights: that is, a copy of the "Inmate Rights Document" shall be copied and pasted at the bottom of the incident narrative in JIMS.
- E. All Incident Reports shall be referred to the Disciplinary Hearing Officer (DHO) for processing. The Facility Commander shall designate the DHO.
- F. The Disciplinary Review Officer (DRO), designated by the Facility Commander shall review all major rule violations or major discipline.
- G. All inmates charged in any disciplinary action shall be afforded the due process provisions of the California Code of Regulations, Title 15, Article 7. That is, inmates can appeal their discipline, which will cause their discipline to be reviewed by a Disciplinary Appeal Officer.
- H. "Substantial evidence" is the level of proof required to show that the inmate violated the rule(s).

- I. No hearing on a pending charge may be held later than 72 hours after the inmate has been presented a copy of the charges in writing and notified of their right to a hearing by the DHO. If the hearing is held before the 24-hour waiting period has expired, the inmate shall agree to, and sign a waiver. The 24-hour Waiver shall be placed in the inmate's booking jacket.
- J. All decisions regarding minor discipline rendered by the DHO shall be final. The discipline, if minor, shall be effective immediately after the inmate has been given written notice of the decision.
- K. If a rule violation is sustained by the DHO, and major discipline is recommended, the Incident Report shall be reviewed by the DRO within 72 hours of the inmate's notification of the discipline. Disciplinary sanctions shall not be imposed prior to this review.

II. MINOR DISCIPLINARY SANCTIONS

Minor Discipline may be categorized as either formal or informal. The following are examples of the types of minor disciplinary measures:

- A. Informal:
 - 1. Written warning.
 - 2. Verbal counseling.
- B. Formal:
 - 1. Loss of T.V. privileges.
 - 2. Loss of Commissary (One Week)
 - 3. Fine – not to exceed \$3.00 (inmate worker wages only).
 - 4. Assignment to extra work detail (sentenced inmates only).

III. MAJOR DISCIPLINARY SANCTIONS

- A. Loss of social visits.
- B. Disciplinary lockdown not to exceed 72 hours. This sanction refers to an inmate(s) being restricted to their bunk area or cell and restricted from being out except for professional visits, showers and legal phone calls.

Inmates in lockdown never lose their right to correspondence, and may order select hygiene products, correspondence related items, and phone time as described Section T.9.

Disciplinary lockdown should not be confused with "security lockdown," a management procedure of locking down inmates when conditions are such that the safety of inmates and/or staff is at risk. Security lockdown is a management prerogative and may be used as necessary but shall not involve any other deprivation of privileges than is necessary to obtain the objective of protecting the inmates and staff.

- C. Group discipline may be used as a last resort and only when the vast majority of the inmates have been involved in a rule violation and the perpetrators cannot be individually identified. Group discipline will be documented on an Incident Report.
 - 1. The Watch Commander, before implementation, shall review group discipline.

2. In an effort to represent all racial groups in submitting appeals to group discipline, up to three inmates may be selected to state any appeal.
- D. Placement into a Disciplinary Isolation Cell. This means loss of all personal items except bedding, clothing, legal papers, personal correspondence (unless the inmate has violated correspondence regulations) and hygiene items, unless such items are being destroyed by the inmate. A Bible, Koran, or other sacred material shall be the only allowed reading material (no other books or magazines), other than legal items, mail and writing implements (paper and pencil).
1. Placement into disciplinary isolation shall not exceed ten days for each hearing.
 2. If an inmate is on disciplinary isolation status for 30 consecutive days, there shall be a review by the Facility Commander before the disciplinary isolation status is continued. This review shall include a consultation with medical and mental health staff.
 3. Such reviews will continue at least every ten days thereafter until the disciplinary status has ended.
 4. Inmates in Disciplinary Isolation may order select hygiene products, correspondence related items, and phone time as described Section T.9.
- E. A disciplinary isolation diet as described in Title 15, Minimum Standards Section 1247, requires the approval of the Facility Commander (see Section K.27).

Staff members requesting that an inmate be placed on a disciplinary diet will prepare form J-6. The J-6 will be routed with a Rule Violation Report as follows:

1. Disciplinary Review Officer/Watch Commander
2. Facility Supervising Nurse or Charge Nurse (for confirmation that the inmate is not currently on a therapeutic diet)
3. Facility Commander (for final approval)

Inmates will receive the disciplinary diet at breakfast and dinner only. Inmates on the disciplinary diet do not receive a lunch meal. The use of this special diet shall constitute an exception to the three-meal-a-day standard.

In consultation with medical staff, the Facility Commander shall approve any continuation on the diet every 72 hours after the initial placement.

- F. Loss of good time credits, and/or loss of opportunity to earn work time credits.
1. Revocation of good and/or work time credits is a tool that should be used with discretion. It should be considered as the last step in “progressive discipline.”, unless the misconduct is egregious. Revocation for cause shall be justified, properly documented, and follow due process.
 2. In some cases the DHO or the DRO may wish to suspend the imposition of lost good or work time credits. This may be used as a motivator for the inmate to stay out of further trouble. If during the suspended time, another violation of rules occurs, the suspended sanction may be immediately imposed as well as any other discipline on the new charge.

3. Generally, work and/or good time credits, once taken away are lost permanently. However, Facility Commanders may restore lost time if justified and appropriate documentation completed and placed into the inmate's booking jacket.
4. When inmates escape or abscond from supervision from detention facilities or community supervision programs such as: E.S.P., County Parole, Work Furlough or Work Release, they shall have all 4019 P.C. credits forfeited in absentia and the appropriate Incident Report completed by the related staff responsible for such facility or program. Upon their return to custody, a formal disciplinary hearing shall be held and any forfeited good time may be upheld or modified by the DRO.
5. Good time credits may be taken away at any time during the inmate's incarceration, up to and including the full amount of good time credits that the inmate is eligible to earn during his period of incarceration.
6. Work time credits may be taken away for refusal to work, or for misconduct that causes the inmate to be ineligible for work programs. Work time credits shall be taken away prospectively only. Credits previously earned by an inmate for work shall not be revoked.

IV. ADMINISTRATIVE SEGREGATION

A sworn supervisor may make the determination that an inmate is required to be placed in Administrative Segregation while the Incident Report is being written and pending the hearing.

V. PARTIES INVOLVED IN DISCIPLINARY PROCESS

- A. Any inmate in the Sheriff's custody.
- B. Facility Staff
- C. Disciplinary Hearing Officer—usually a Sergeant who was not involved in the rule violation.
- D. Disciplinary Review Officer—as designated by the Facility Commander who was not involved in the rule violation.
- E. Disciplinary Appeal Officer—as designated by the Facility Commander.

VI. REPORTING PROCEDURES

A. RULES AND REGULATIONS VIOLATIONS

1. Informal – may be verbal only (if documented use Incident Report)
2. Formal – Shall be documented on Incident Report and shall contain the alleged violation with sufficient detail that the offense is clearly understood.

B. CRIMINAL LAW VIOLATIONS

1. Incident Report
2. San Diego Regional Crime/Incident Report form

VII. DISCIPLINARY HEARING OFFICER'S RESPONSIBILITY

- A. The staff member serving the Incident Report to the inmate shall advise the inmate of the rule violations and their right to a hearing, and that 24 hours from this advisement a hearing on the matter may be held, unless the inmate waives the delay in writing. The inmate shall also be advised that they may explain their version of the incident, bring witnesses or statements of witnesses, produce evidence or prepare in any other reasonable way for their defense. These advisories may be posted in conspicuous locations in all housing units.
- B. The DHO may ask the reporting deputy additional questions or investigate the matter further, including but not limited to interviewing witnesses and collecting evidence to determine a fair finding.
- C. If the DHO sustains the violations, the DHO shall assign appropriate discipline, taking into account the entire set of circumstances, such as priors, intent, security, etc.
- D. If the report recommends major discipline, it shall be reviewed by the DRO before discipline may be imposed.
- E. Inmates may refuse to appear at a hearing, or the DHO may decide their presence would be disruptive and conduct the hearing in their absence. Appropriate waiver forms for this situation shall be utilized, and their use will be documented under the "Hearing Narrative" tab using the Disciplinary Hearing template.
- F. After the hearing, the DHO shall notify the inmate in writing of the disposition using a copy of the finalized Incident Report.

VIII. DISCIPLINARY LIMITATIONS

- A. The DHO must not be directly involved with the incident that he/she is serving as the disciplinary hearing officer. This limitation also extends to the DRO, who may not be directly involved or if he/she is serving as the DRO.
- B. Inmates in disciplinary isolation shall be issued clothing and bedding. They shall not be deprived of them during any part of the day except when inmates are involved in the destruction of clothing or bedding. Any decision to remove clothing or bedding must be reviewed during each 24-hour period by the Watch Commander.
- C. No inmate or group of inmates shall be given the authority to exercise the right of punishment over any other inmate or group of inmates.
- D. Safety cells shall not be used for disciplinary purposes.
- E. Food or water shall not be withheld as a disciplinary measure.
- F. In no case shall access to legal counsel be suspended as a disciplinary measure.

IX. DISCIPLINARY APPEAL PROCESS

- A. Any inmate receiving disciplinary action may appeal the discipline through the JIMS appeal procedure using the J22 "Grievance/Appeal of Discipline" form.

- B. The appeal shall be submitted within 10 days from the time the inmate was given written notification of disciplinary action. The staff member who receives the appeal will deliver the J22 form to the sworn supervisor who is going to act as the Appeal Officer for the appeal.
- C. The Appeal Officer will identify the original incident number and record this number on the J22 form. Next he or she will follow these steps to add the appeal hearing in JIMS: 1) Search for the hearing of the initial incident and bring up its "Hearing Lookup" tab. 2) Go to the "Hearing Findings" tab and check "Yes" in the "Appeal:" box. 3) Return to the "Hearing Lookup" tab and click the "Add Appeal" button. 4) Schedule the hearing in the "Hearing Date/Time" box on the "Hearing Detail" tab. 5) Record the new appeal hearing number on the J22 form,
- D. The Appeal Officer will conduct the appeal hearing with the inmate. After making a decision on the case, the Appeal Officer will record the decision in the "Hearing Statements" and "Hearing Findings" tabs. The appeal decision will be documented in the hearing using the "Disciplinary Hearing" template.
- E. The Appeal Officer will make any necessary modifications to the discipline in the "Restrictions" tab of the appeal hearing.
- F. The inmate shall receive a response to the appeal within 10 days from the time it is submitted. The response will be presented to the inmate in the form of a JIMS incident report, to include the appeal hearing. The Appeal Officer may reduce, uphold, or increase the sanction or ask for a new hearing. Discipline may be overturned and the record expunged if the Appeal Officer believes there was a problem with any of the following three aspects of discipline.
 - 1. The substance of the charge was insufficient to prove a violation.
 - 2. The due process of our policies was not followed.
 - 3. The penalty imposed was not commensurate with the charges.
- G. The filing of an appeal shall not delay the imposition of any sanction or discipline.
- H. In addition to the above review provisions, the Facility Commander may review all disciplinary actions.