

DATE:	NOVEMBER 7, 2023
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 incarcerated person's behavior into compliance with established incarcerated person rules and regulations while establishing a fair and impartial process of review.

POLICY

Any discipline initiated against an incarcerated person shall be impartially imposed without regard to race, color, sex, gender identity and/or expression, sexual orientation, age, disability 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 incarcerated person while in custody.

PROCEDURE

I. RULE VIOLATION

- A. Incarcerated person 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 incarcerated person is aware of and understands the procedures. If an incarcerated person is illiterate, assistance shall be provided to the incarcerated person upon request.
- B. Any staff member may initiate an incident report on an incarcerated person who has violated the incarcerated person 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 a copy of the "Incarcerated Person Rights" document. The "Incarcerated Person Rights" shall be copied and pasted at the bottom of the incident report narrative in the Jail Information Management System (JIMS).
- E. All incident reports shall be referred to the disciplinary hearing officer (DHO) for processing.
- F. The disciplinary review officer (DRO) shall review all major rule violations or major discipline.
- G. An incarcerated person charged in any disciplinary action shall be afforded the due process provisions of the California Code of Regulations, Title 15, Article 7. That is, the incarcerated person 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 the incarcerated person violated the rule(s).
- I. No hearing on a pending charge may be held later than 72 hours after the incarcerated person has been presented a copy of the charges in writing and notified of their right to a hearing with the DHO. If the hearing is held before the 24-hour waiting period has expired, the incarcerated person shall agree to and sign a Disciplinary Hearing Rights Waiver (J-72B) form. The J-72B form shall be placed in the incarcerated person's custody record.
- J. All decisions regarding minor discipline rendered by the DHO shall be final. The discipline, if minor, shall be effective immediately after the incarcerated person 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 incarcerated person'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 television privileges.
 - 2. Loss of commissary (one week).
 - 3. Fine – not to exceed \$3.00 (incarcerated worker wages only).
 - 4. Assignment to extra work detail (those committed incarcerated people only).

III. MAJOR DISCIPLINARY SANCTIONS

- A. Loss of social visits.
- B. Disciplinary Separation (not to exceed 72 hours).
 - 1. This sanction refers to an incarcerated person only being restricted to their bunk area or cell and restricted from being out except for professional visits, showers and legal phone calls.
 - 2. Incarcerated person(s) may keep their personal items (e.g., correspondence,

commissary, hygiene, books) while serving Disciplinary Separation.

3. Disciplinary Separation should not be confused with “security lockdown,” a management procedure of locking down incarcerated people when conditions are such that the safety of the incarcerated population 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 incarcerated population and staff.
- C. Group discipline may be used as a last resort and only when the majority of the incarcerated population 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. To represent all racial groups in submitting appeals to group discipline, up to three incarcerated people may be selected to state any appeal.
- D. Placement into disciplinary separation cell. This mean the loss of module property items except bedding, clothing, legal papers, and personal correspondence (unless the incarcerated person has violated correspondence regulations, in which case correspondence may be suspended for no longer than 72 hours without a review and approval by the watch commander or designee) and hygiene items, unless such items are being destroyed by the incarcerated person. A Bible, Koran or other sacred material, legal items and mail shall be the only allowed reading material (no other books or periodicals).
1. If module property items are removed in conjunction with disciplinary separation, the sworn staff member who removed the property shall indicate in an incident report where the incarcerated person's property was stored, including how it was labeled.
 2. Placement into disciplinary separation shall not exceed 10 days for each hearing.
 3. If an incarcerated person is on disciplinary separation status for 30 consecutive days, there shall be a review by the facility commander before the disciplinary separation status is continued. This review shall include a consultation with health and mental health staff.
 4. Such reviews will continue at least every 10 days thereafter until the disciplinary separation status has ended.
 5. Incarcerated people in disciplinary separation may order select hygiene products and correspondence related items as described in Detention Services Bureau Policies and Procedures (DSB P&P) section T.9.
 6. If after placement into separation, mental health or health staff determine that an individual has serious mental illness or an intellectual disability, they shall be removed from disciplinary separation immediately upon this determination.

E. 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 incarcerated person to avoid further violations. 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, once work and/or good time credits are taken away, they are lost permanently. However, facility commanders may restore lost time if justified and appropriate documentation is completed and placed into the incarcerated person's custody record.
4. When an incarcerated person escapes or absconds from supervision from detention facilities or community supervision programs (e.g., E.S.P., County Parole, Work Furlough, 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 conducted 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 individual's incarceration, up to and including the full amount of good time credits the incarcerated person is eligible to earn during their period of incarceration.
6. Work time credits may be taken away for refusal to work, or for misconduct that causes the incarcerated person to be ineligible for work programs. Work time credits shall be taken away prospectively only. Credits previously earned by an incarcerated person for work shall not be revoked.

IV. ADMINISTRATIVE SEPARATION

A sworn supervisor may make the determination an incarcerated person is required to be placed in administrative separation housing while the incident report is being written and pending the disciplinary hearing.

V. PARTIES INVOLVED IN THE DISCIPLINARY PROCESS

A. Any incarcerated person in the Sheriff's custody.

B. Facility staff

1. Disciplinary hearing officer (DHO) – a sergeant or designee who was not involved in the rule violation.
2. Disciplinary review officer (DRO) – as designated by the facility commander and

not involved in the rule violation.

3. 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 an 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. NetRMS crime report

VII. DISCIPLINARY HEARING OFFICER'S RESPONSIBILITY

- A. The staff member serving the incident report to the incarcerated person shall advise the incarcerated person of the rule violations and their right to a hearing, and that no sooner than 24 hours from this advisement a hearing on the matter may be held, unless the incarcerated person waives the delay in writing. The incarcerated person shall also be advised 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 previous incidents, intent, security, etc.
- D. If the report recommends major discipline, it shall be reviewed by the DRO before discipline may be imposed.
- E. Incarcerated person(s) 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 Statements" tab in JIMS.
- F. After the hearing, the DHO shall notify the incarcerated person 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 in which they are serving as the

DHO. This limitation also extends to the DRO, who may not be directly involved if they are serving as the DRO.

- B. Incarcerated people in disciplinary separation shall be issued appropriate clothing and bedding. They shall not be deprived of them during any part of the day except when they 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 incarcerated person or group of incarcerated people shall be given the authority to exercise the right of punishment over any other incarcerated person or group of incarcerated people.
- 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 incarcerated person receiving disciplinary action may appeal the discipline using the Incarcerated Person Grievance/Appeal of Discipline (J-22) form.
- B. The appeal shall be submitted within 10 days from the time the incarcerated person was given written notification of disciplinary action. The staff member who receives the appeal will deliver the J-22 form to the sworn supervisor who is going to act as the appeal officer.
- C. The appeal officer will identify the original incident number and record this number on the J-22 form. The appeal officer 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 J-22 form.
- D. The appeal officer will conduct the appeal hearing with the incarcerated person. After making a decision on the case, the appeal officer will record the decision in the "Hearing Statements" and "Hearing Findings" tabs.
- E. The appeal officer will make any necessary modifications to the discipline in the "Restrictions" tab of the appeal hearing.

- F. The incarcerated person shall receive a response to the appeal within 10 days from the time it is submitted. The response will be presented to the incarcerated person 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 required by DSB P&P 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.