

JAIL BULLETIN

JANUARY 1996

NUMBER 124

The *Jail Bulletin* may be used as a supplement to your jail in-service training program. If officers study the material and complete the attached "open book" quiz, they may receive **one half hour of credit**. The bulletin and quiz may be reproduced for staff use as necessary. **We welcome any material you would like to contribute to the *Jail Bulletin*.**

INMATE DISCIPLINARY PROCESS PART II

I. POLICY

The County Corrections facility requires that all inmates in its custody conduct themselves in a lawful and orderly manner. Inmates who violate the rules of the Department will be subject to disciplinary procedures.

II. PURPOSE

The purpose of this policy is to establish the Inmate Disciplinary System, which sets forth rules regulating inmate conduct, provides sanctions for rules violations, and establishes procedures for inmate disciplinary actions.

III. DEFINITIONS

Corporal Punishment: Any kind of physical punishment inflicted on the body.

Disciplinary Hearing Officer: (DHO) An individual who is responsible for conducting all disciplinary hearings for major violations and for maintaining associated documentation.

The contents of the *Jail Bulletin* represent the views of the author(s) and do not necessarily reflect official views or policies of the Nebraska Crime Commission or the Nebraska Jail Standards Board.

Legitimate Institutional Interest: The Department is forced, due to security considerations, to postpone certain items, events, privileges or information.

Lesser Included Violation: When it is impossible to commit a particular violation without committing, by the same conduct, a violation of a lesser degree, the latter is a "lesser included violation."

Misconduct Report: An investigative report on which an inmate is charged with specific violation(s) of the Inmate Violations Code.

Proffer: An offer of proof accepted by the Disciplinary Hearing Officer as true without actually hearing from the source.

Sufficient Evidence: The Disciplinary Hearing Officer's standard of proof. The DHO must find that relevant evidence exists and that it is sufficient to make him/her believe that the inmate committed the alleged violation.

IV. GENERAL PROCEDURES

- A. As part of the orientation process upon admission, all inmates will receive a copy of the Inmate Violations Code listing all prohibited acts and the range of penalties for each violation. They will also receive a written explanation of disciplinary procedures.
- B. Disciplinary action will be of such a nature as to regulate the inmate's behavior within acceptable limits and will be taken at such times and in such degrees as is necessary to accomplish this objective.
- C. Disciplinary action shall not be capricious, retaliatory, or revengeful.
- D. Corporal punishment of any kind is strictly prohibited.
- E. Mechanical means of physical restraining shall not be used as punishment.
- F. Accurate summary reports of all disciplinary actions shall be kept.
- G. The commission, or suspected commission, of an offense in violation of existing local, state or federal laws by an inmate or inmates shall be referred to the proper law enforcement agency, along with all pertinent evidence.

- H. All misconduct reports must be heard. Under no circumstances will a misconduct report be discarded or otherwise disposed of except through the procedures contained in this Policy.
- I. The objectivity and impartiality of the DHO must be preserved at all times. In order to insure this, staff may not discuss any aspect of any major misconduct report or disciplinary hearing with the DHO outside of the hearing itself. The only exceptions are the DHO's immediate supervisor and the Director.
- J. Disciplinary sanctions will take effect immediately. The filing of an appeal will not postpone the imposition of a sanction.

V. INMATE VIOLATIONS CODE

- A. The facility administration will develop and keep current a written Inmate Violations Code. This code will list all prohibited acts and prescribe the range of penalties for each.

VI. DISCIPLINARY MANUAL

- A. The facility administration will develop and keep current a Disciplinary Manual for use by staff at all levels within the facility. The manual will serve as a reference for staff in implementing the disciplinary system and will address:
 - 1. preparation of Misconduct Reports
 - 2. completion of forms and documents
 - 3. procedures for conducting minor and major hearings
 - 4. rules of evidence
 - 5. appeals process
 - 6. informants
 - 7. procedures for restitution
 - 8. other appropriate topics

VII. REPORTING PROCEDURES

- A. Any employee of the Department, including contract employees, may begin a disciplinary action when they observe a rule violation, or when one is reported to them.

- B. The first step will always be to take whatever action is reasonable and necessary to restore and/or maintain order.
- C. The Shift Supervisor will be notified of the violation and the action taken.
- D. A Misconduct Report will be prepared and delivered to the Shift Supervisor. The Shift Supervisor will decide upon the appropriate charge based on the facts contained in the report.
 - 1. If the facts contained in the report do not support any violation, no charge will be placed on the report and it will be treated as an informational Investigative Report.
 - 2. A supervisor may place charges on a report s/he has written.

VIII PROCEDURES FOR MINOR VIOLATIONS

- A. A supervisor will act as hearing officer and will hold an informal hearing.
 - 1. Any officer who was directly involved in the incident, or the supervisor who affixed the charge on the misconduct report, may not conduct the hearing.
- B. Hearing Procedures:
 - 1. The inmate has a right to attend the hearing. If the inmate chooses not to attend, the hearing may be held in absentia.
 - 2. The inmate does not have a right to require the reporting employee's presence or to call witnesses at the hearing. However, the hearing officer may do so at his/her own discretion.
 - 3. The supervisor will read the report to the inmate and explain the charge.
 - 4. The inmate will be asked to enter a plea (either Guilty or Not Guilty), and will be given an opportunity to respond to the report.
 - 5. The supervisor may find the inmate either Guilty or Not Guilty, based upon sufficient evidence. The supervisor may not dismiss the report or amend charges.

6. If the hearing officer finds the inmate guilty, s/he must impose a sanction or sanctions from the list of applicable sanctions found in the Inmate Violation Code.

The supervisor may not suspend sanctions

- C. A written summary of the hearing will be prepared by the supervisor. The supervisor's finding (either Guilty or Not Guilty) will be documented on the hearing summary, accompanied by a written finding of fact setting forth the evidence relied upon and the reasons for the decision.
- D. The supervisor and the inmate will both sign the hearing record. The inmate will be given a copy of the hearing summary. If found guilty, the inmate will be advised of his/her right to appeal.
- E. A copy of the misconduct report with the hearing summary attached will be filed.
 1. Reports on which the inmate was found guilty will be filed in the inmate's historical file.
 2. Reports on which the inmate was found not guilty will be maintained in a separate departmental file, and may not be placed in the inmate's files.
- F. Hearings on minor misconduct reports must be conducted within 48 hours of the date and time that the violation occurred or that staff became aware of the violation.
- G. Inmates charged with a minor violation specifying loss of or damage to County property may be assessed restitution. In such instances the following due process requirements will apply:
 1. The inmate must be given at least 24 hours advance written notice of the hearing, which will include the date and time the hearing will occur, the specific violation s/he is charged with, and a copy of the misconduct report.
 2. The inmate may call witnesses and present documentary evidence in his/her own behalf.

H. Appeals:

1. Inmates found guilty may file an appeal with the facility Superintendent within seven calendar days of the hearing. The Superintendent must render a decision within five working days of receipt of the appeal.
2. The Administrator/Sheriff may:
 - a. Uphold the decision of the supervisor
 - b. Impose a lesser sanction
 - c. Reverse a finding from Guilty to Not Guilty.
3. The Administrator/Sheriff may not increase the sanctions.

The next jail bulletin will continue with the inmate disciplinary process in part III.

If you wish to write for the *Jail Bulletin* or if you have a special need you wish to be addressed through the bulletin, please contact: Jail Standards Division, P.O. Box 94946, Lincoln, Nebraska 68509, telephone 402-471-3710, FAX 402-471-2837.

QUIZ

Nebraska Jail Standards require that jail staff receive eighteen (18) hours of in service training each year. The Jail Bulletin may be used to supplement in service training if an officer studies the bulletin, completes the quiz, and this process is documented by the jail administrator for review during annual jail inspections.

JANUARY 1996

NUMBER 124

**SUBJECT: Inmate Disciplinary Process
Part II**

NAME: _____

DATE: _____

1. List the two items inmates should receive during admission and orientation.
 - 1)
 - 2)
2. The disciplinary hearing officer's standard of proof for a **finding of guilty** is what?
3. To preserve the impartiality of objectivity of the disciplinary hearing officer, staff may not discuss any aspect of the case with that officer outside of the hearing.

_____ True _____ False
4. List the 8 required topics that should be included in a disciplinary manual.
 - 1)
 - 2)
 - 3)
 - 4)
 - 5)
 - 6)
 - 7)
 - 8)
5. When rule violation incident is observed, a staff member's first step should be what?
6. In a hearing for a minor rule infraction the inmate has the right to require the reporting employee's presence at the hearing.

_____ True _____ False
7. When a hearing officer is going to assess restitution as a sanction on a minor misconduct conviction, what due process is necessary?
 - A)
 - B)
 - C)
 - D)

CREDIT: One half hour credit for jail in service training requirement.

QUIZ (Answer Sheet)

Nebraska Jail Standards require that jail staff receive eighteen (18) hours of in service training each year. The Jail Bulletin may be used to supplement in service training if an officer studies the bulletin, completes the quiz, and this process is documented by the jail administrator for review during annual jail inspections.

JANUARY 1996

NUMBER 124

**SUBJECT: Inmate Disciplinary Process
Part II**

NAME: _____

DATE: _____

1. List the two items inmates should receive during admission and orientation.
 - 1) **Copy of the inmate violations code**
 - 2) **Written explanation of the disciplinary procedures**

2. The disciplinary hearing officer's standard of proof for a **finding of guilty** is what?
"Sufficient evidence"

3. To preserve the impartiality of objectivity of the disciplinary hearing officer, staff may not discuss any aspect of the case with that officer outside of the hearing.

 X **True** _____ **False**

4. List the 8 required topics that should be included in a disciplinary manual.

<ol style="list-style-type: none">1) preparation of misconduct reports2) Completion of forms and documents3) procedures for conducting minor and major hearings	<ol style="list-style-type: none">4) rules of evidence5) appeal process6) informants7) procedures for restitution8) other appropriate topics
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5. When a rule violation incident is observed, a staff member's first step should be what?
Take whatever action is reasonable and necessary to restore order.

6. In a hearing for a minor rule infraction, the inmate has the right to require the reporting employee's presence at the hearing.

_____ **True** X **False**

7. When a hearing officer is going to assess restitution as a sanction on a minor misconduct conviction, what due process is necessary?
 - A) **24 hour advance written notice of the hearing**
 - B) **Specific violation being charged**
 - C) **A copy of the misconduct report**
 - D) **Inmate witnesses and presenting documentary evidence.**

Answer sheet should be retained by the Jail Administrator
CREDIT: One hour credit for jail in service training requirement.