KERN COUNTY SHERIFF'S OFFICE

Detentions Bureau
Policies and Procedures

TITLE: INCARCERATED PERSON DISCIPLINE I-100

EFFECTIVE:	REVIEWED:	REVISED:	UPDATED:
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APPROVED BY: Detentions Bureau Chief Deputy Joel Swanson

REFERENCE: Title 15, Article 7; PC 4019.5; DBPPM Section I-200, DBPPM K-400

POLICY

It is the policy of the Kern County Sheriff's Office to provide a safe, secure, orderly, and controlled environment for incarcerated people and staff using a disciplinary process that provides clear notice of the incarcerated person rules of conduct and consistently applied sanctions for violations of those rules. This shall be accomplished by a progressive disciplinary process that promotes the desired behavior. The provisions of this policy apply to disciplinary actions against any incarcerated person in the custody of the Kern County Sheriff's Office.

Nothing in this policy prohibits the Section Manager or Shift Supervisor from administratively separating any incarcerated person or group of incarcerated people for the length of time necessary to maintain or restore order during a disturbance or potential disturbance or pending a formal investigation. This length of time is not to exceed 24 hours unless written approval from the Facility Manager is provided.

If a manager grants approval to exceed 24 hours, a notification must be made to the Division Commander. Additionally, a notification to the Division Commander is required for every subsequent 24-hour extension.

Any need for administrative separation of individuals outside of the process outlined above shall refer to DBPPM K-400.

DIRECTIVE #1

The following limitations shall be adhered to when imposing disciplinary proceedings on an incarcerated person included to be not limited to the following:

- Staff will not delegate to any incarcerated person or group of incarcerated people the authority to exercise the right of punishment over any other incarcerated person or group of incarcerated people;

- Staff will not reveal or allow to be revealed, the identity of any confidential information to any incarcerated person in relation to disciplinary proceedings;

- In no case shall a safety cell or any restraint device be used for disciplinary purposes;

- No incarcerated person may be deprived of the implements necessary to maintain an acceptable level of personal hygiene;

- Food or water shall not be withheld as a disciplinary measure;

- Staff will not impose any punishment upon an incarcerated person except through the process detailed in this policy;

- In no case shall access to courts or legal counsel be denied as a disciplinary measure.

Procedure A: Initiation of Disciplinary Action

Any Deputy/Sheriff's Aide may initiate disciplinary action against an incarcerated person for violation of facility rules. The discipline may take one of two forms, depending upon the severity of the misconduct. The two forms of discipline are:

Oral Reprimand: The staff verbally reprimands the incarcerated person(s) regarding the rule violation. There are no sanctions against the incarcerated person and no written documentation of the incident is necessary.

Formal Discipline: The staff member completes a Jail Management System (JMS) incident report and, if necessary, an Incident Report. The incarcerated person has the right to a disciplinary hearing. If the incarcerated person is found to be guilty, they may be subjected to approved sanctions.

Any staff initiating disciplinary action will:

- Determine the seriousness of the violation and the type of disciplinary action to be initiated. This may include:

- Checking the incarcerated person's incident record for past violations;
- Considering the nature of the violation;
- Referring to the listing of minor, serious, and major violations of the Incarcerated Person Rules of Conduct (see Attachment A).

- If staff determines that an oral reprimand is appropriate, staff will issue the oral reprimand as described above. The oral reprimand will serve as the extent of action taken for this specific infraction.

  Note: Any pregnant or postpartum incarcerated person that is approved to be locked down for purposes as defined prior or in accordance with DBPPM K-400 must be housed in Infirmary housing. Medical staff will be notified immediately. If the incarcerated person is considered pregnant or postpartum (i.e., pink band), they will be seen by the medical staff within one hour of being locked down.

- If staff determines that the formal discipline process is appropriate, the deputy/sheriff's aide will complete a JMS incident report indicating the violation(s). Using the form(s) generated by the JMS software application, the deputy will:
  - Determine what if any disability accommodations are required to ensure the individual understands the disciplinary procedures in accordance with DBPPM G-1210 and H-1200.
  - Inform the incarcerated person of the intent to initiate formal disciplinary proceedings;
  - Provide the incarcerated person with a copy of the "Notice of Intent to Conduct Disciplinary Hearing" form that is generated by the JMS;
  - Provide the incarcerated person with a copy of the written report.
  - Give the incarcerated person a brief verbal summary of the incident;
  - Have the incarcerated person sign the form, acknowledging the notification and indicating if the incarcerated person wishes to proceed with the disciplinary hearing immediately or postpone for 24-hours (See Directive B-1);

Notes: If the incarcerated person refuses to sign, indicate the refusal in the space for the incarcerated person's signature. In the event that the incarcerated person refuses to sign; the hearing shall be postponed for 24 hours.

- Enter the notification information into the JMS.

When formal discipline is initiated, the Shift Supervisor will:

- Review and approve the report (in JMS) or return the report to the deputy/sheriff's aide for correction if necessary;

- Assigned a Detentions Senior Deputy, as stipulated in Directive B-1, to conduct a disciplinary hearing as described in Procedure B of this section.

- Ensure policy is followed, that timelines are met, and assign staff to conduct follow up on documented incidents as well as disciplinary hearings when appropriate.

Procedure B: Disciplinary Hearings

DIRECTIVE B-1

The following guidelines will be adhered to when conducting incarcerated person disciplinary hearings:

- All Disciplinary Hearings shall be conducted by Detentions Senior Deputies.

- Detentions Senior Deputies will not conduct or facilitate disciplinary hearings for any incident in which they were involved in, witness to, or for which they initiated the disciplinary action.

- Disciplinary hearings will be conducted no sooner than 24 hours after the incarcerated person has been notified of the disciplinary action unless the incarcerated person has waived the 24-hour period at the time of the notification. Such a waiver shall be documented on the notification form provided by JMS.

- Disciplinary hearings will be conducted no later than 72 hours after the incarcerated person has been notified of the disciplinary action.

- Disciplinary hearings should take place between the hours of 0600-2200.

Note: This does not change the expectation of the notification process. If a rule violation is committed between the hours of 2200 and 0600 the notification will be made at the time of the incident/write up.

The Hearing Detentions Senior Deputy will:

- Thoroughly review the documentation of the incident and any evidence provided by staff;

- Interview all reasonably available witnesses that the hearing Detentions Senior Deputy deems necessary;

- Interview the incarcerated person who has been charged with the rule violation, allowing them an opportunity to make a statement, present evidence, and call witnesses on their behalf.

- Interview any witnesses called by the incarcerated person if necessary;

- Review any relevant security video if necessary;

- If requested by the incarcerated person, provide staff or the incarcerated person assistance when the incarcerated person is illiterate, has a disability that affects their ability to understand or participate in the process, or when the issues are complex. Reasonable accommodations, such as the provision of auxiliary aids, interpreters, or assistive technology, should be made available to incarcerated persons with physical, intellectual, or sensory disabilities to ensure their effective communication and participation in disciplinary proceedings.

  Note: Incarcerated people do not have a right to:

  - Confront an accuser;

  - Cross examine witnesses;

  - Be present during the testimony of witnesses.

A disciplinary hearing may proceed without the presence of the accused incarcerated person. A hearing may only proceed without their presence under limited and exceptional circumstances, and only when all reasonable efforts to ensure their participation has been exhausted. Such circumstances must be clearly documented and may include:

- A verified and voluntary refusal by the incarcerated individual to attend or participate in the hearing, after being informed of their rights and the consequences of non-participation;

- Significant, well-documented safety or security concerns that cannot be mitigated through reasonable alternative measures;

- Repeated and serious disruptive behavior that renders the hearing unmanageable, despite prior warnings and attempts to restore order. Disruptive behavior may include, but is not limited to:

    - Persistent interruptions;
    - Refusal to comply with lawful instructions;
    - Use of aggressive or threatening language;
    - Physical actions that jeopardize the integrity of the hearing.

- A documented incarcerated person's refusal to cooperate;

- Documented facility, incarcerated person, or staff safety concerns;

- For each violation charged, determine one of the dispositions as defined below. Enter the disposition in JMS.

    - **Sustained:** The investigation disclosed sufficient evidence to conclude the incarcerated person violated the rule of incarcerated person conduct as charged;

    - **Not Sustained:** The investigation failed to disclose sufficient evidence to clearly prove the incarcerated person violated the rule of incarcerated person conduct;

- Complete the narrative of the Disciplinary Hearing screen in JMS indicating the reasons for which the disposition(s) was determined;

- Inform the incarcerated person of the hearing results. If one or more charges are found to be sustained against the incarcerated person, tell the incarcerated person that they will be notified of disciplinary action to be taken after the report is reviewed by the Administrative Sergeant;

- Deliver the completed form to the Shift Supervisor.

The Shift Supervisor will:

- Sign the hearing form or return it to staff for the addition of any missing information.

- Forward the completed form to the Sanctioning Deputy.

Procedure C: Imposition of Disciplinary Sanctions

DIRETIVE C-1

The following guidelines will be adhered to when imposing disciplinary sanctions:

- Correspondence privileges shall not be withheld except in cases where the incarcerated person has violated rules in which correspondence was involved;

    - In such cases, correspondence may be suspended for no longer than 72 hours without review and approval of the Section Manager.

- Sanctions will be applied in accordance with the approved sanctioning guidelines (see Attachment C) unless the Section Manager approves additional or alternate sanctions.

The Administrative Sergeant or equal Sergeant Designee will:

- The corresponding facility administrative sergeant or designee will serve as the sanctioning officer;

- Review the current disciplinary incident and any other disciplinary incidents that occurred during the incarcerated person's current booking, with specific attention to the type of previous violations, and the time that has elapsed since any previous discipline;

- For each rule violation for which a "sustained" disposition was entered, consult the sanctioning guidelines (Attachment C) to determine what sanctions are to be imposed;

- Consider whether the incarcerated person has been identified as having a mental disability or mental illness that could be a contributing factor to their behavior. Additionally, evaluate whether the incident necessitates a Correctional Behavioral Health review form assessment, regardless of the individual's documented mental health status.

- If the individual is not documented as having any mental health issues, add a CBH referral, along with the review form assessment.

Consult with Correctional Behavior Health (CBH) staff by completing (Attachment B) CBH Review form to assess the incarcerated person's mental health status and any potential factors contributing to the alleged behavior.

  - CBH staff shall provide a response no later than 72 hours after receiving the review form.

  - CBH shall provide input regarding the incarcerated person's mental health history, current condition, medication regiment (if applicable), and any other relevant factors that may impact behavior.

- The Administrative Sergeant and CBH staff shall collaborate to determine the most appropriate course of action, considering both the safety and security of the facility and the mental health needs of the incarcerated person. CBH will also provide recommendations regarding any pending sanctions for the incarcerated person, assessing whether those sanctions may negatively impact the individual's mental health. Additionally, CBH may propose alternative sanctions as appropriate.

- Indicate the recommended disciplinary actions on the Maintain Disciplinary Sanctions screen of the JMS. Articulate the reasons for any sanctions that are outside the established guidelines;

- Notify the Section Manager or their designee the the disciplinary incident is ready for approval. Obtain the Section Manager's approval for any recommended sanctions that are outside of the guidelines established in the sanctioning guidelines (Attachment C);

- Forward a copy of the sanctions form provided by the JMS to the incarcerated person's housing unit for delivery to the incarcerated person. Retain the original for a minimum of five years;

- If necessary, inform any unit(s) responsible for carrying out the sanctions or any actions required to impose the sanctions.

Procedure D: Incarcerated Person Discipline Appeals

Incarcerated people that receive disciplinary sanctions may appeal the sanctions by completing an Incarcerated person Request Slip and marking the "Appeal" check box or by completing an Incarcerated person Grievance Form.

Any staff member who receives an incarcerated person discipline appeal on a request slip will forward the appeal to the appropriate Sanctioning Deputy.

Any staff member who receives an incarcerated person discipline appeal on a grievance form will process it in accordance with DBPPM I-200 (Incarcerated Person Grievances).

Upon receiving an incarcerated person discipline appeal, the Sanctioning Administrative Sergeant will forward the appeal to the other facility Administrative Sergeant. That facility Administrative Sergeant will;

- Review the appeal;
- Determine if the appeal is granted or denied;
- Process a response to the appeal in accordance with Section I-200, Procedure B, of this manual;
- Complete the narrative of the Disciplinary Hearing screen in JMS indicating the reasons for which the disposition(s) was determined;
- Enter the appeal finding into the Disciplinary Hearing screen in JMS.

Any staff member who receives an appeal to a grievance response regarding disciplinary sanctions will forward the appeal to the supervisors of the Sanctioning Deputy.

- The supervisor will process the appeal to the grievance response in accordance with Procedure C of Section I-200 of this manual.