



ARKANSAS DEPARTMENT OF CORRECTIONS
Division of Correction – Director’s Office

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ADMINISTRATIVE DIRECTIVE

SUBJECT: Inmate Disciplinary Manual

NUMBER: 2022-12

SUPERSEDES: 18-34

APPLICABILITY: Inmates and Staff

PAGE: 1 of 24

REFERENCE: AR 831 Disciplinary Rules and Regulations; AR 834 Procedure for Handling Alleged Disciplinary Infractions of Mentally Disordered Inmates; SD Prison Rape Elimination Act

APPROVED: Original Signature on file

EFFECTIVE DATE: 8/1/2022

I. POLICY:

To ensure that Institutional Rules and Regulations are enforced through an unbiased and prudent fact finder and to provide appropriate due process throughout the disciplinary process. The behavior of offenders committed to the custody of the Arkansas Division of Correction (ADC) shall be controlled in an impartial and consistent manner. Prior to the adoption of any changes to this policy, the proposed changes shall be posted in prominent locations (employee bulletin boards, inmate bulletin boards and electronic distribution) throughout ADC institutions at least thirty (30) days prior to the adoption of the changes. Inmates in Restrictive Housing will be provided a copy of the proposed changes by the Unit Disciplinary Officer. All comments shall be considered prior to adoption and shall be kept as part of the appropriate policy file documentation.

II. PURPOSE:

The ADC shall establish and designate authority to Major and Minor Disciplinary Officers who shall hear and adjudicate all reports of infractions of institutional rules and regulations. When inmate behavior requires discipline, the following procedures shall be followed to ensure that no unnecessary disciplinarys are written and that:

- A. There is no bias in favor of the charging officer;
- B. There is no presumption of guilt;
- C. There is a reliable method of determining whether an infraction has in fact occurred;
- D. Blatant forms of partiality which can result from prior knowledge, involvement, bias, or personal interest in a particular case are minimized; and
- E. Sanctions are imposed to discourage further Rule Violations with the use of Restrictive Housing only when the presence of the inmate in the general population poses a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility.

III. DEFINITIONS:

- A. Assault. A willful attempt or threat(s) to inflict injury upon the person of another.
- B. Battery. The actual use of physical force upon the person of another.
- C. Business Day. Monday through Friday, excluding legal State recognized holidays.
- D. Counsel Substitute. Staff appointed by the Warden to assist eligible inmates through the disciplinary process including the appeal process if necessary.
- E. Disciplinary Appeal. The process an inmate must follow if he or she does not agree with the verdict of their disciplinary hearing by using the Major Disciplinary Appeal Form 831-4 (Attachment 4).
- F. Disciplinary Hearing Administrator (DHA). The Internal Affairs Administrator is the DHA and is responsible for ensuring that Disciplinary Hearing Officers are trained. The DHA will review the hearings conducted by these hearing officers regularly.
- G. Disciplinary Hearing Officer (DHO). The DHO conducts Major Disciplinary Court Hearings on Major Disciplinaries.
- H. Disciplinary Report (DR). The factual basis for the charge of Rule Violation(s) and the rule(s) violated.
- I. Disciplinary Extension. To extend the time period to allow for further investigation or additional information before holding a disciplinary hearing. If an Extension is needed, Extension form, F-831-5 must be completed.
- J. Indecent Exposure. Public exposure of one's genitals for gratification or pleasure.
- K. Introduction. Introduction shall be established through investigation that the charged inmate assisted in the article being brought on ADC property, moved about on ADC property, or stored in any manner on ADC property.
- L. Masturbation. Manipulating one's genitals to arouse or gratify a sexual desire; does not require exposure.
- M. Minor Disciplinary Officer (MDO). The MDO is designated by the Warden to conduct hearings on minor disciplinary charges referred to as Minor Disciplinary Court.
- N. Modified. If the major disciplinary is Modified, the sanctions will be adjusted or changed to reflect the decision of the person modifying the infractions. A written explanation will be provided to the inmate; and a copy will be saved in the inmate's electronic file.
- O. PREA Charge. Any Rule Violation that is connected to the Prison Rape Elimination Act (PREA) and requires a response directed by the Department's PREA Policy. The outcome for a PREA violation may direct a precaution to be entered into the electronic offender file indicating predator or victim identifications. This would include violations of:
 - 1. Sexual misconduct;
 - 2. Rape or forced sexual act;
 - 3. Masturbation in the presence of another;
 - 4. Sexual threats;
 - 5. Sexual harassment;
 - 6. Demanding sexual acts in trade; and
 - 7. Aiding or abetting in any of the above.

- P. Punitive Housing. A separate housing used for inmates, who have been found guilty of a rule violation as a result of a disciplinary hearing.
- Q. Restitution. To reimburse or pay back for loss or damages.
- R. Restrictive Housing. A placement that requires an inmate to be confined to a cell for at least twenty-two (22) hours per day.
- S. Reversed. If the disciplinary is reversed, it is voided, and privileges are restored back to what they were before the major disciplinary infractions/sanctions were entered. The disciplinary will remain in the inmate's electronic file as a record.
- T. Rule Violation. The details of the wrongdoing contained in the DR..
- U. Serving Officer/Notifying Officer. The Officer who serves charges on the inmate(s), may appoint a Counsel Substitute and receives the inmate's list of Witnesses regarding the charge(s) and provides the inmate with a copy of the DHO's report.
- V. Staff. Any employee of the ADC, the Correctional School System, and any employee or contractor providing services within an ADC facility through contract or agreement with the ADC.
- W. Video Conferencing System. Telecommunication in the form of video conference.
- X. Warden. For the purpose of this policy, means Warden or Work Release Center Supervisor.
- Y. Witness. Employees, inmates, or free world person(s) who have first-hand knowledge of an infraction, event or incident.

IV. GENERAL RULES FOR MAJOR DISCIPLINARIES:

- A. Reasonable effort should be made to first counsel the inmate about his/her behavior to prevent the filing of unnecessary disciplinaries.
- B. Each Major Disciplinary Court Hearing shall consist of one (1) DHO, who shall have singular authority for determining guilt or innocence and assessment of appropriate punishment.
- C. The DHO(s) are located at the Randall L. Williams Correctional Facility and will conduct hearings at all units.
- D. The Serving Officer/Notifying Officer who serves the DR shall have the authority to appoint a Staff Counsel Substitute at the time the DR is served.
- E. Disciplinary action(s) shall be determined by a schedule of punishments that are based on the seriousness of the Rule Violation(s) as outlined in this policy.
- F. The appeal process shall be directed to the Warden, then to the DHA and then to the Director.

V. TRAINING:

- A. The DHA will be responsible for maintaining an instructional folder containing information on the proper procedures for holding Major Disciplinary Court Hearings and Minor Disciplinary Court Hearings, serving disciplinaries, rules and regulations of each unit, plus other pertinent information which could be helpful in implementing these policies and procedures. The folders will be available for training and review. The DHA is responsible for training all DHOs.
- B. DHOs will be required to review and be knowledgeable on all policies and procedures, including but not limited to:

1. The use of the electronic offender filing system for processing disciplinary records;
 2. Inmate Handbook;
 3. Employee Handbook;
 4. Applicable state and federal laws;
 5. Secretarial Directives (SD);
 6. Administrative Rules (AR) of the ADC;
 7. Administrative Directives (AD); and
 8. Unit Operating Procedures.
- C. Each Warden will designate Serving Officer/Notifying Officer(s) and ensure they are trained on ADC policies including the Inmate Disciplinary Manual and procedures for serving disciplinaries.
- D. Each Warden will designate one (1) or more MDO's and ensure that such officers are trained on ADC policies including the Inmate Disciplinary Manual and procedures for conducting Minor Disciplinary Court.

VI. BEHAVIOR RULES AND REGULATIONS:

The following rules and regulations shall govern inmate behavior at all units. Note that some rule numbers are not in order as categories were combined, but historical information will be maintained; numbers reserved for historical purposes are not listed in this policy. The “**bold**” words below indicate what should display on the ADC website for major Rule Violations; in some instances it will be the category listed (e.g. POSSESSION/MANUFACTURE OF CONTRABAND).

Group Disruption Category

Penalty Class

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| 1-1. | Banding together for any reason which disrupts unit operations which may include taking over any part of the unit or property of the ADC, seizing one (1) or more persons as hostages, or interrupting operations. Rule Violation may result in loss of all good time. | A |
| 1-6. | Direct involvement in writing, circulating or signing a petition, letter, or similar declaration that poses a threat to the security of the facility. | B |
| 1-7. | Any Rule Violation set forth above that is found to be related to recruitment or participation in a security threat group, or is motivated by racial, religious, or gender discrimination. Rule Violation may result in the loss of all good time. | A |

Individual Disruptive Behavior Category

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| 2-2. | Under the influence of and/or any use of illicit drugs, alcohol, intoxicating chemicals or any medication in an unauthorized manner (e.g. includes but are not limited to, slurred speech, incoherent speech, redness of the eyes, vomiting, cannot stand on his/her own, etc.). | A |
| 2-3. | Monetary Misconduct. Entering into unauthorized contractual agreements, failure to turn in all checks or monies received, obtaining money through fraud or misrepresentation (examples include, but are | A |

- not limited to, buying articles on a payment plan, failure to turn in tips received on work release, or misleading someone to obtain money).
- 2-4. **Employment Misconduct.** Work Release inmates who quit a job without prior approval, get fired for misconduct, tardiness, or shirking duties, or fail to notify ADC staff when too ill to work. B
- 2-5. **Unauthorized use of mail or telephone.** B
Includes passing unauthorized messages, three-way communication(s), calling on another's phone code, posing as another person, and telephone communications with unauthorized persons.
- 2-11. Tattooing, piercing, and **self-mutilation** intended to change oneself or another's appearance; this does not include attempts to commit suicide or injure oneself unless solely for manipulation. See AR 834 Procedure for Handling Alleged Disciplinary Infractions of Mentally Disordered Inmates. B
- 2-12. **Failure to keep one's person or quarters** in accordance with regulations, or failure to wear ADC-issued ID, or clothing according to center/unit policy. C
- 2-13. Breaking into, or causing disruption of an inmate line or **interfering with operations.** B
- 2-15. **Tampering with,** or blocking, any lock or **locking device.** A
- 2-16. **Refusal to submit to substance abuse testing** or submitting a diluted sample. A
- 2-17. Creating **unnecessary noise,** including disruptive **or** aggressive **play** in areas other than designated recreation areas. C
- 2-20. **Unauthorized communication,** contact, or conduct with a visitor or any member of the public or staff. B
- 2-21. Running from, avoiding, or otherwise **resisting apprehension.** A
- 2-22. **Interfering with** the taking of **count.** A
- 3-3. **Unexcused absence** from work/school assignment or other program activity. B
- 3-5. **Out of place of assignment.** B
- 5-5. **Provoking or agitating a fight.** B
- 11-1. **Insolence to a Staff member.** A
- 12-2. **Refusal of job assignment** including participating in a treatment program, or class assignment, or violating program rules that results in dismissal from a program. B
- 12-3. **Failure or refusing to obey** verbal and/or written **order(s)** of staff. B
- 12-4 **Refusing a direct verbal order** to leave or enter any area of the institution or ADC property including, but not limited to, a cell, barracks, chow hall, transportation vehicle, hallway or work site. A

- 12-5 **Failure or refusal to leave** Restrictive Housing and return to population A
- 13-2. **Lying to a staff member**, including omissions, and providing misinformation. B
- 13-3. **Malingering**, feigning an illness (see page 17 for further explanation). B

BATTERY CATEGORY

- 4-4. **Battery on Staff**. Use of physical force upon Staff (examples include, but are not limited to, Staff, volunteers, vendors and/or contractors). A
- 4-5. **Aggravated Battery**. Use of a weapon, or injury resulting in victim(s) having to go to the Emergency Room and/or hospital, in Battery upon another person. This Rule Violation will result in loss of all good time and the loss for one (1) calendar year of the privilege to purchase or possess any item which was used as a weapon. A
- 4-8. **Battery**. Use of physical force upon an inmate. A
- 4-17. **Throwing or attempting to throw substances** known or unknown, toward or upon another person. Rule Violation may result in loss of all good time. A

ASSAULT CATEGORY

- 5-3. Assault. Any willful attempt or **threat(s) to inflict injury** upon another, directly or indirectly, verbally or in writing. A
- 5-4. Making **sexual threat(s)** to another person, directly or indirectly, verbally or in writing. A

THEFT, DESTRUCTION OF PROPERTY OR EXTORTION CATEGORY

- 6-1. **Demanding/receiving money or favors** or anything of value in return for an offer/promise of protection from others, or to keep information secret. A
- 7-1. **Unauthorized use of state property/supplies**. B
- 7-4. **Theft or possession of stolen property**. A
- 8-4. **Destruction** or intentional misplacement **of property** of another or the ADC. Restitution may be ordered based on replacement cost, or the value of lost, intentionally misplaced, or destroyed property. A
- 8-6. **Adulteration of any food(s) or drink(s)** with intent to harm others. Rule Violation may result in the loss of all good time. A
- 8-7. **Setting a fire** or destruction or **tampering with fire detection** or suppression device. A

POSSESSION/MANUFACTURE OF CONTRABAND CATEGORY

- 9-1. Possession/Introduction of any firearm, ammunition, weapon, fireworks, explosive, unauthorized combustible substance, or unauthorized tool. Rule Violation may result in loss of all good time. A

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| 9-3. | Possession/Introduction/manufacture of any drug, narcotic intoxicant, tobacco, chemical, or drug paraphernalia not prescribed by medical staff. | A |
| 9-4. | Possession or movement of money or currency, unless specifically authorized. | A |
| 9-5. | Possession/Introduction of clothing or property not issued to inmate nor authorized by the center/unit. | C |
| 9-9. | Counterfeiting, forging, or unauthorized possession/introduction of any document, article of identification, money, security, or official paper. | A |
| 9-14. | Possession/Introduction/use of unauthorized electronic device(s): Examples include, but are not limited to, flash drive, MP player, Tablet, DVD player, etc. | A |
| | Rule violation will result in the loss of all good time and will result in the loss of the Inmate Telephone System privileges for one (1) year. Possession of a cell phone is a crime which may result in criminal prosecution for a felony. | |
| 9-15 | Possession/Introduction/Use of a cell phone or any cell phone component: Examples include, but are not limited to, sim cards, charger, battery, etc. or an unauthorized messaging device. | A |
| | Rule violation will result in the loss of all good time and will result in the loss of the Inmate Telephone System privileges for one (1) year. Possession of a cell phone is a crime which may result in criminal prosecution for a felony. | |
| 9-16. | Use of internet or social media. | A |
| 9-17. | Preparing, conducting, or participating in a gambling operation. | B |

SEXUAL ACTIVITY CATEGORY

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| 10-1. | Engaging in non-abusive sexual activity with another consenting person. | A |
| 10-2. | Making sexual proposals to another person. (PREA) | A |
| 10-3. | Indecent Exposure and/or Masturbation; may result in a referral for criminal prosecution (examples include, but are not limited to, verbal and/or non-verbal gestures). | A |
| 10-4. | Bestiality. | A |
| 10-5. | Masturbation in the presence of another inmate. | A |
| 10-7. | Demanding sexual contact in trade or for protection from physical harm or mental anguish, or other victimization. | A |
| 4-10. | Rape or forced sexual act with/on an inmate. Rule Violation may result in the loss of all good time. (PREA) Rape is a crime and may result in criminal prosecution for a Class Y Felony. If convicted, may result in a life sentence. | A |

- 4-19. **Rape or forced sexual act** on staff, volunteer, contractor or other individual not incarcerated at the time of the incident. Rule Violation may result in the loss of all good time. Rape is a crime and may result in criminal prosecution for a Class Y Felony. If convicted, may result in a life sentence. A

TRAFFICKING AND TRADING CATEGORY

- 15-2. Asking, coercing, or offering inducement to anyone to violate ADC policy or procedure, inmate rules and regulations, center/unit operating procedures, this also includes extortion. A
- 15-3. The purchase or exchange of unauthorized articles or authorized articles obtained through unauthorized channels. B

ESCAPE CATEGORY

- 16-1. Escape from custody of the ADC; May result in the loss of all good time and/or result in referral for criminal prosecution. A
- 16-2. Failure to return from any approved activity or furlough at the designated time. A
- 16-3. Attempted escape, including leaving a Work Release job Site or work detail, while in the custody of the ADC. This includes but is not limited to, written notes regarding escape, phone call recordings advising escape plans, and verbal threats to escape, etc. A

B. Determination of Charges

Only one (1) Rule Violation may be charged for a given behavior. The violation cited should be that which most accurately categorizes the behavior. However, a DR may cover an incident which is made up of a sequence of several distinct behaviors, each of which is a rule violation.

1. Example of several Rule Violations in one (1) sequence:

An inmate stays in the barracks, missing work call (Rule 3-3, Unexcused absence from work); a correctional officer finds him/her in the barracks and gives him/her a direct order to join his/her work detail which the inmate refuses (Rule 12-3, Failure to obey an order); and the inmate stands up and threatens to punch the officer if the officer doesn't leave him/her alone (Rule 5-3, Assault).

2. Example of several Rule Violations for a given behavior that should result in one (1) rule charge, the one that most accurately categorizes the behavior:

While exposing himself, an inmate is masturbating at his cell door with all his clothes off while watching an officer in front of the dayroom of inmates (Rule 10-3, Indecent Exposure, and Rule 10-5, Masturbation in the presence of another inmate; this should result in one (1) charge of 10-3).

VII. MAJOR DISCIPLINARY COURT:

A. Establishment of Court

The Major Disciplinary Court Hearing shall be composed of a single DHO who will be directed in the performance of those duties by the DHA.

B. Responsibilities of the Major Disciplinary Hearing Officer

1. The Major DHO is charged with the responsibility of ensuring that all rules promulgated by the ADC regarding major disciplinary hearings are followed.
2. In all major disciplinary proceedings, the DHO shall fully explain the charges and inform the inmate of the possible consequences if found guilty. The DHO shall further ensure that there is no undue air of hostility in the proceedings and that the proceedings and deliberations are not conducted in a perfunctory manner. The DHO will be vigilant in averting any racial, religious or gender discrimination during the proceedings or in the assessment of punishment. Any such signs of discrimination will be immediately reported to the Warden, DHA and the Director.
3. The DHO shall hear all of the facts of the case and shall have singular authority for deciding guilt or innocence and the punishment assessed, except as outlined in the AD on Evaluations for Disciplinary Court Proceedings for Seriously Mentally Ill and Mentally Deficient Inmates regarding punishment, and AR 834, Procedure for Handling Alleged Disciplinary Infractions of Mentally Disordered Inmates.
4. Regarding guilty pleas, the DHO must ensure that the inmate understands the charge to which he/she is pleading guilty. Guilty pleas will be monitored to determine whether the inmate offers any supporting evidence indicating innocence of the charge as written.
5. Responsibilities of the DHO regarding Counsel Substitutes are enumerated under Section VII (J) (1).

C. Responsibilities of the Building or Field Chief Security Officer (CSO)

1. Prior to the Major Disciplinary Court Hearing, the CSO will review all disciplinaries and may do one (1) of the following:
 - a. Forward the disciplinary to the DHO with his or her initials on the report;
 - b. Reduce it to a Minor Disciplinary;
 - c. Dismiss the charges and file the DR as a matter of record; or
 - d. Convert the Minor Disciplinary to a Major Disciplinary.

Regarding provision (b) and (c) above, the CSO will consult with the charging person on any decision which results in dismissal or reduction. In the event the CSO dismisses the DR(s), a copy of the dismissed disciplinary shall be scanned into the electronic offender file. Reasons for such dismissals should be documented on the face of the DR(s). The CSO will notify the Warden or designee for final review of the dismissed disciplinary in the electronic offender file. Copies of these reports are not to be included in the inmate's permanent file.

2. The CSO may set reasonable limitations on the number of inmate Witnesses. The CSO will document the reason(s) for the limitation on the Major Disciplinary Form (F-831-1) under "Witness Statements." In the event that a limit (usually five) is placed upon inmate Witness statements, the same limit must be applied to statements taken from Staff.
3. May exclude any Witness(es) who were not present at the time of the incident and inquire from the offender what testimony from that Witness would reveal.

D. General Considerations

1. The Major Disciplinary Form (F-831-1) will be completed for Major Disciplinary Reports against an inmate and will include specific details of the rule infraction alleged against the inmate. At a minimum, the details shall include who, what, when, where, how, and why the charge is brought. The charging person should be the Staff with the most knowledge of the event. Once the DR is written, the charging person may seek assistance from others for purposes of correcting any

mistakes in grammar or punctuation; however, the actual content of the DR must not be changed.

2. The Major Disciplinary Form (F-831-1) must be signed by the charging person, affirming that the information in the report is true and correct. Any relevant supporting documents (such as incident reports) should be attached to the major disciplinary form. The completed form with any attachments should be forwarded immediately to the CSO. This process will be completed electronically in the the electronic offender file when that system is available.
3. Any Witness(es) to the infraction shall prepare statement(s) to be attached to the charging person's report of the incident. Witnesses include any inmates, employees, and/or free world persons who have firsthand knowledge of the infraction. Witnesses who appear to testify before the Disciplinary Court will have their statements recorded. If written Witness statements are submitted to the Disciplinary Court, those will be reviewed by the DHO and documented in the electronic offender file. In the event a Witness requested by an inmate is denied, that request may be submitted to the inmate in writing.
4. It will be the responsibility of the DHO to thoroughly review all available documents concerning the Major Disciplinary Reports. He/she will determine whether or not additional information is necessary and may grant an Extension of time pursuant to these guidelines if necessary.

E. Hearings

1. The Major Disciplinary Court Hearing shall meet or be held by Video Conference as often as necessary at a convenient place and time between the hours of 6:00 a.m. and 6:00 p.m., in order to administer the institutional disciplinary functions as expeditiously as possible. It is recommended that hearings be held at least weekly. The court should avoid convening on weekends and holidays to minimize interference with inmate visitation; however, if security or administrative necessity as determined by the Warden dictates, then the hearings may be held on a weekend or holiday. Any weekend or holiday hearings will be limited to business as necessary to alleviate the concerns expressed by the Warden.
2. A charged inmate must be given at least twenty-four (24) hours prior notice of a disciplinary proceeding. The inmate may call Witnesses by giving the Serving Officer/Notifying Officer the names of the individuals he/she wishes to call. The manner in which the Witnesses' statements are presented to the court shall be within the discretion of the DHO.
3. No disciplinary will be heard after seven (7) Business Days from the date it was written except pursuant to an authorized Extension.

For example, an inmate receiving a disciplinary on Tuesday at 9:00 a.m. or 10:00 p.m. should be tried no later than 6:00 p.m. the following Thursday assuming there were no holidays.

Note: The day the disciplinary is written is not to be counted in calculating the seven (7) Business Days.

4. Upon convening to consider cases of inmate violations of rules and regulations, the DHO shall call the inmate to appear before him/her for their Major Disciplinary Court Hearing, unless the inmate waives in writing or through behavior (e.g., acts absurd at hearing, walks out before hearing is over). In the event that an inmate wishes to waive his/her appearance, a waiver form will be completed and a copy provided to the charged inmate and must be reviewed by the Deputy Warden. If the inmate waives his/her right to appear and is found guilty, he/she cannot appeal the decision.

5. Once the inmate is present before the DHO for the Major Disciplinary Court Hearing, the recorder will be turned on, the reading noted, the time and date entered, and the charged inmate identified by name and ADC number.
6. The DHO will identify himself/herself in the presence of the inmate and inform the inmate that this is, in fact, a Major Disciplinary Court Hearing.
7. The DHO will scrutinize the DR to determine whether all time limits and procedural requirements have been met.
8. It must be determined whether all allowed Witness statements requested by the inmate and all other items of physical or documentary evidence are present before the court. The court may summon any additional Witnesses it deems necessary. Witness statements may be taken in writing, orally in person, or by telephone.

All written Witness statements, whether taken prior to the hearing or obtained at the request of the court, will be reviewed and a copy included in the disciplinary record. The choice of how the Witness statement will be taken is left to the discretion of the DHO. If more information or clarification is needed from the charging person or other Witnesses, such information may be obtained through the means described above (written, oral, or telephone). In the event that such testimony is obtained with the Witness appearing before the court, the charged inmate is not to be allowed in the room during testimony and the inmate does not have a right to cross-examine Witnesses. The inmate will receive a statement of fact(s) from the DHO if provided by the charging officer. The DHO may grant an Extension to the inmate if the Witness is not readily available to provide additional testimony.

9. The inmate should be informed that he/she has been charged with a specific offense, the possible consequences of a finding of guilt including possible loss of privileges, loss of Good Time, loss of Class Status, assignment to Restrictive Housing, additional duty, change in assignment/unit, Restitution, or any combination.
10. The inmate should then be asked whether the nature of the proceeding and the possible consequences are understood. If it appears that the inmate does not understand, the policy regarding Counsel Substitutes (see Section VII-J and 1) must be followed.
11. The Rule Violation(s) and the charging person's report will then be read to the inmate.
12. The inmate will be asked to enter a plea of guilty or not guilty. Guilty pleas must be explored to determine whether the inmate is certain of the charge being admitted. Any refusal to enter a plea shall be construed as a plea of not guilty.
13. The inmate must be afforded an opportunity to speak on his/her own behalf and submit any documentary evidence excluding Witness statements. All documentary evidence presented will become a part of the disciplinary packet. All Witness statements are to be gathered by ADC employees after the inmate has submitted a Witness list to the serving officer. Inmates will not be allowed to gather and submit Witness statements on their own.
14. After the inmate has made a statement and/or presented a defense, the recorder will be muted and Witness statements will be reviewed and documented.
15. The DHO must carefully weigh all evidence with special emphasis upon individual pieces of "primary evidence." Rumor or suspicion about an inmate's behavior shall not be taken into account.
16. After the DHO has weighed all of the evidence, a decision shall be made regarding guilt or innocence.

17. In the event that the inmate is found guilty, punishment must be imposed within the guidelines established by this policy.
18. The Video Conferencing System will then be un-muted. The inmate must then be informed as to the finding of guilt or innocence on each particular Rule Violation and must be informed of the punishment, if any, imposed.
19. The inmate must be informed of his or her right to appeal and to obtain Staff assistance in the fashioning of an appeal if needed.
20. The inmate will receive an oral statement detailing the reason for the finding of guilt or innocence at the time the DHO informs the inmate of the verdict. The DHO will reduce these reasons to writing prior to the conclusion of that Business Day and the Serving Officer/Notifying Officer will provide a typed copy or ISSR 100 (electronic generated disciplinary hearing results form) generated by the electronic offender file to the inmate within twenty-four (24) hours.

If the inmate refuses to sign, one (1) employee must Witness the refusal. It is sufficient to indicate that the inmate signed (or refused to sign) the original copy.
21. When the DHO has completed his or her work for the day, the DHO shall complete the disciplinary court report.
22. Once the DHO's report has been completed, the disciplinary action shall not be altered in any way except as provided herein.

F. Disciplinary Actions

1. Upon determining that an inmate is guilty of violating institutional rule(s), the DHO may apply any or all of the sanctions from the penalty class of the most serious rule violated. Additional sanctions may be applied from the penalty class corresponding to the additional rule(s) violated. However, sanctions defined in terms of days (e.g, loss of good time, loss of privileges, and extra duty) may not be applied to more than one Punitive Housing per disciplinary action. The punishment rendered should not be more than the DHO finds necessary to discourage repeated rule violations in the future.
2. Any or all sanctions may be suspended for up to six (6) months.
3. DHOs may not amend an inmate's level in the Varner Super Maximum (VSM) Program, but those actions can be considered by the Classification Committee when reviewing that inmate.
4. Inmates who violate the following rules may be placed on Non-Contact Visitation and restricted from Video Visitation for one (1) year for each offense. Any subsequent disciplinary for another violation following the initial violation will cause the one (1) year restriction period to start over from the date of conviction of the new violation.
 - a. Under the influence of and/or use of an illegal drug, alcohol, intoxicating chemical or any medication in an unauthorized manner.
 - b. Refusal to submit to substance abuse testing.
 - c. Possession or Introduction of any drug, narcotic, intoxicating chemical, or drug paraphernalia not prescribed by medical Staff.
 - d. Possession or movement of money or currency, unless specifically authorized.
 - e. Possession of clothing or property not issued or authorized by the Center/Unit.

- f. Correspondence/conduct with a visitor in violation of regulations.
 - g. Possession/Introduction/use of a cell phone or unauthorized messaging device.
 - h. Possession/Introduction/use of unauthorized electronic devices or parts of one, such as a charger or sim card.
 - i. Indecent Exposure
 - j. Social media
5. All inmates assigned to Restrictive Housing will remain a Class IV inmate and will not receive any good time for the duration of their confinement in Restrictive Housing.

G. Range of Allowable Sanctions

1. Penalty Class "A"*

- a. Punitive Housing up to thirty (30) days. Inmates serving a punitive disciplinary sentence shall not earn meritorious good time.
- b. Loss of earned good time up to 365 days (loss of all earned good time is allowable for offenses listed that include the statement “may result in loss of all good time”).
- c. If the use of the Inmate Telephone System is involved, it shall result in the loss of telephone privileges for one (1) year.
- d. Loss of designated privileges, up to sixty (60) days, or the loss of a commissary item(s) up to three hundred sixty five (365) days if such commissary item(s) were used in the commission of the disciplinary infraction.
- e. Restitution based on replacement cost or the value of lost, intentionally misplaced, or destroyed property.
- f. Reduction of up to three (3) steps in class.
- g. Extra duty up to two (2) hours per day for up to thirty (30) days.
- h. Possession/Introduction/use of a cell phone will result in the loss of Inmate Telephone System privileges for one (1) year.
- i. For PREA related violations, referral to the Classification Committee for consideration of precautions based on the findings of the investigation and outcome of the Disciplinary Hearing. The Classification Committee will consider PREA status in housing and job assignments and potential placement in programming based on the outcome.
- j. An inmate found guilty of escape or attempted escape, felonious battery, homicide or attempted homicide, possession/manufacture of contraband, throwing or attempting to throw substances, and third or subsequent guilty verdict for Indecent Exposure and/or Masturbation that carries a Class A penalty will not be eligible for class promotion and/or reclassification for one (1) year unless the Warden recommends to the Classification Committee that the inmate be considered for promotion and/or reclassification.

2. Penalty Class "B"*

- a. Punitive Isolation up to fifteen (15) days. Inmates serving a punitive disciplinary sentence shall not earn meritorious good time.
- b. Loss of earned good time up to one hundred fifty (150) days.

- c. Loss of designated privileges up to forty-five (45) days.
- d. Restitution based on replacement cost or the value of lost, intentionally misplaced or destroyed property.
- e. Extra duty up to two (2) hours per day for up to fifteen (15) days.
- f. Formal reprimand and/or warning.
- g. Reduction of up to two (2) steps in class.

3. Penalty Class "C"*

- a. Punitive Isolation up to ten (10) days. Inmates serving a punitive disciplinary sentence shall not earn meritorious good time.
- b. Loss of earned credits up to sixty (60) days.
- c. Loss of designated privileges up to thirty (30) days.
- d. Restitution based on replacement cost or the value of lost, intentionally misplaced or destroyed property.
- e. Extra duty up to two (2) hours per day for up to ten (10) days.
- f. Formal reprimand/warning.
- g. Reduction of one (1) step in class.

Note: Loss of all earned good time is allowable for offenses listed that include the statement "may result in loss of all good time".

*In addition to any other punishment authorized under this AD, the use of any commissary item in connection with the violation of any of these rules may result in the loss of the privilege to acquire that type of item for up to twelve (12) months.

H. Major Disciplinary Appeal Process

1. At the time of notification of the verdict in a disciplinary proceeding, the inmate will be notified that he/she has the right to appeal any decision of, or disciplinary action taken by, the DHO, directly to the Warden of the unit/center involved. This notification will be documented by having the inmate sign the front of the disciplinary indicating that he/she understands the right to appeal. If the inmate waives his/her right to appear before the Major Disciplinary and is found guilty, he/she cannot appeal the decision. In the event the inmate is illiterate, the DHO shall, at the request of the inmate, direct the inmate's Counsel Substitute (Section VII (J) (1) to assist him/her in writing the letter of appeal.
2. The appeal must be written within the space provided on the Appeal Form. All grounds for appeal should be briefly stated and include the reasons why the conviction or punishment should be Reversed or Modified. This statement will be considered at all levels of appeal and may not be re-written at each stage. If the inmate fails to receive responses in the time frame set forth below, he/she may appeal to the next level.
 - a. The appeal shall be submitted in writing and must be submitted within fifteen (15) Business Days after a copy of the DHO's report is given to the inmate and shall set forth in detail the grounds for any appeal. The Warden has thirty (30) business days from receipt of the appeal to respond, except that if the inmate is serving punitive time as a result of the disciplinary, the Warden should answer the appeal within ten (10) Business Days.

- b. If the Warden upholds the original decision of the DHO's verdict and the inmate is not satisfied with the response, he/she has fifteen (15) Business Days from receipt of the Warden's decision, to appeal to the DHA, who has thirty (30) Business Days to respond.
 - c. If the DHA upholds the decision of the original verdict, and the inmate disagrees with the response, he/she has fifteen (15) Business Days from receipt of the DHA's decision, to appeal to the Director. The Director has (30) Business Days to respond. The written appeal must set forth in detail the grounds for such an appeal. The Director's decision is final.
 - d. During any stage of the appeal, the reviewer may affirm the action of the DHO or modify it as he/she deems just and proper; except at no point in the appeal process shall the penalty be increased.
3. In cases where a DR is written by a Warden, the inmate may bypass the appeal to the Warden and appeal to the DHA.

I. Disciplinary Extensions

1. Limited Disciplinary Extensions of time may be granted by the respective Warden in the following circumstances:
 - a. The charged inmate has escaped;
 - b. The inmate is out to court, hospital or otherwise off the unit/center;
 - c. The case requires more extensive investigation;
 - d. The inmate is on Treatment Precautions;
 - e. The inmate is on Quarantine;
 - f. An emergency situation exists at the unit/center; or
 - g. Volume of disciplinaries scheduled for hearing is excessive and more time is needed to ensure a fair determination in each case.
2. The DHO may grant an Disciplinary Extension if additional information or investigation is needed in order to arrive at a fair decision.
3. In the event that an Disciplinary Extension is granted, a copy of the Disciplinary Extension Form shall be forwarded to the charged inmate. A Disciplinary Extension may be granted for a period of up to five (5) additional Business Days. If a greater length of time is needed, then the Disciplinary Extension must be renewed and will not exceed five (5) Business Days per Disciplinary Extension. Any Disciplinary Extension over thirty (30) days must be approved by the Director. The Warden may give an indefinite Disciplinary Extension while the inmate is absent from the Unit/Center.
4. Regarding escapes, the time limit will not begin to run until the inmate is returned to the unit where the disciplinary hearing will be held. The Warden should check the appropriate box on the Disciplinary Extension Form and enter the time and date when the inmate was returned to the unit/center. The time and date entered will serve as the starting point for the time limit.

J. Special Cases

1. Counsel Substitutes

- a. The following inmates shall be entitled to a Counsel Substitute in disciplinary proceedings:
 - i. Those inmates designated by the CSO, or the investigating officer.

- ii. Those inmates who the DHO believes are illiterate, or incompetent, including any inmate with an IQ of sixty (60) or below, or a reading level below fourth (4th) grade (records of School District and/or Mental Health will be checked).
 - iii. Inmates facing disciplinary proceedings where the issues involved are so complex that he/she is not likely to understand the nature of the charges.
 - iv. Any inmate not able to understand and speak the English language.
 - v. Inmates assigned a Mental Health Classification of 3 or 4 if recommended on Form 834.
 - b. Counsel Substitutes shall consist of Staff members as designated by the Warden. These individuals will be on notice that they are the Counsel Substitutes and should be prepared to be of service at the Major Disciplinary Court Hearings. The Warden shall prepare a list of approved Counsel Substitutes who shall be immediately available to the investigating officer, the CSO, and the DHO on request. When it is determined that an inmate is in need of a Counsel Substitute by the Serving Officer/Notifying Officer, who serves the disciplinary, and/or the CSO, the Counsel Substitute should be notified in advance so that he/she can be on notice of which inmate is involved and the nature of the disciplinary. When the Counsel Substitute determination is made by the DHO at the hearing, he/she shall immediately recess or postpone the disciplinary hearing so the Counsel Substitute may have an opportunity to meet with the accused inmate prior to the entering of a plea. The DHO should then proceed with the next disciplinary, having noted the starting and stopping place on the recording prior to the recess and further noting the starting and stopping place on the recording when the disciplinary hearing is reconvened with the Counsel Substitute present.
 - c. Counsel Substitutes have no voice in the decision making of the court. When the Counsel Substitute performs the required duties for an inmate in a disciplinary hearing, the Counsel Substitute shall not remain in the disciplinary hearing room during deliberation.
 - d. All inmates have the right to refuse a Counsel Substitute. Any refusal is a waiver of the Counsel Substitute, and the refusal by the inmate must be noted on the recording and the disciplinary form, and the disciplinary should proceed without any Counsel Substitute.
 - e. In the event that a Counsel Substitute requires more time to prepare the necessary information for a fair determination of the disciplinary, the DHO may grant an Disciplinary Extension of time for further investigation.
 - f. Once the DHO has made a decision and advised the inmate of the appeal procedure, the Counsel Substitute will be responsible for aiding the inmate in the appeal process. The responsibility of the Counsel Substitute to the inmate shall be restricted to the presentation of evidence on the inmate's behalf at the disciplinary hearing and any subsequent proceedings, and providing an adequate explanation of the charges and consequences to the inmate both before and after the hearing.
2. Use of Confidential Information and Confidential Informants
- a. If the charging person does not have firsthand knowledge of the event, the charge may be brought based upon information received from a confidential informant(s); however, no disciplinary shall be based solely upon information received from a confidential informant(s). There must be corroborating evidence that supports the information received from the confidential informant(s) for the disciplinary to proceed.

- b. The charged inmate has no right to confront and cross-examine an informant against him/her or to know the informant's identity or statement. It is mandatory that any time confidential informant information is provided; the DHO shall ensure that the confidential information does not become known to other inmates. This information shall be marked confidential and entered into the electronic offender file.
- c. In cases where a disciplinary is written primarily upon information from a confidential informant, the record must contain the informant's signed statement in language that is factual rather than subjectively conclusive and must establish that the confidential informant had personal knowledge of the matter.
- d. In cases where the charging person is able to verify information obtained from a confidential informant, and the charging person has obtained independent corroborating evidence of the event, it is not necessary to provide the confidential informant's name and statement to the DHO.
- e. In the event that the DHO uses as evidence an investigative report which is classified as confidential, the DHO is responsible for ensuring that the confidential report is safely returned to the DHA without becoming known to inmates or unauthorized Staff. When describing the report under "Evidence Relied Upon," it is sufficient to use the phrase "Confidential Report," and state the conclusion of the report without detailing any of the specifics contained in the report.

3. Contraband and Other Physical Evidence

If physical evidence is involved in or crucial to the determination to be made by the DHO such as weapons or contraband, then photographs and/or written reports of that evidence will be presented to and considered by the DHO. Following the hearing, any contraband may be disposed of pursuant to the Inmate Property Control AD, but must be described in great detail under "Evidence Relied Upon." Photographs and written reports should be entered into the electronic offender file and made a part of the inmate's permanent file.

4. Malingering

- a. Certain DRs may require testimony from healthcare Staff such as when the inmate's defense is that he/she was too ill to abide by an institutional rule. Whenever a charged inmate's defense is illness, unit healthcare Staff must be contacted to determine whether the inmate was examined for a complaint of illness and whether, in the opinion of the person(s) who examined the inmate, the inmate was feigning illness or not sufficiently ill to justify a lay-in.
- b. A statement from healthcare Staff will be obtained either in writing or by telephone. If written, the statement will be attached to the DR, noted under "Evidence Relied Upon" and made a part of the inmate's permanent file. If by telephone, the statement should be recorded and, if necessary, repeated for the recording device, and quoted on the Disciplinary Hearing Action Form (F-831-3) and, when available, in the electronic offender file under "Evidence Relied Upon." If the proper entry is not made under "Evidence Relied Upon," indicating the source and content of the testimony from healthcare Staff, the disciplinary action will be deemed invalid and expunged from the inmate's records.
- c. Where an inmate's defense for failure to work is illness and healthcare staff reports that the inmate did not report to medical or submit a sick call on the date of the infraction, the defense shall be found without merit as it is the responsibility of the inmate to go to the

healthcare Staff for treatment of an illness. If the inmate did solicit treatment from medical Staff, but was cleared to report to work, the healthcare report should be entered under "Evidence Relied Upon" and considered in conjunction with any other evidence available to the court. If healthcare Staff reports that the inmate was in fact too ill to perform his/her designated work task, the inmate shall be found not guilty.

- d. When an inmate is already performing his/her work assignment, and complains of illness, the inmate should be sent or escorted to medical. If the inmate receives a "lay-in," then there should be no DR. If the inmate is cleared by medical and is ordered to go to work but refuses, a DR may be written. If the inmate is sent back to work and returns to work, he should only be given a DR when the officer has concrete evidence that the entire episode was contrived to harass Staff or to temporarily avoid work. In such case, the healthcare Staff must be contacted to determine whether, in the opinion of the person(s) who examined the inmate, the inmate was feigning illness. If any illness was determined to be present, even though not sufficient to warrant a lay-in, the inmate should be found not guilty when the inmate returned to work after being seen by medical Staff.
- e. Upon contacting the healthcare Staff for information, the name and statement of the person contacted must be entered under "Evidence Relied Upon."

5. Damaging Property

- a. Any inmate who is found guilty of destroying, damaging, or intentionally misplacing property may be ordered to make Restitution in the amount of the replacement costs or the value of the property, depending upon individual circumstances as found by the DHO.
- b. The DHO shall levy against the institutional account of the inmate for the reasonable value of the property intentionally destroyed, misplaced, or the reasonable value to repair intentionally damaged property after making inquiry to determine such values. The levy against the inmate account shall continue until the obligation is fully paid.
- c. In cases where the DHO finds destruction or damage was caused by negligence as opposed to willfulness, the DHO should determine whether the inmate knew or should have known that the behavior in question would likely cause damage or destruction of the property, whether the inmate acted in direct contravention of written or verbal orders, or any other circumstances which reflect upon the appropriateness of levying against the inmate account.
- d. The reasoning supporting any decision to order restitution for damaged property must be fully detailed under "Reasons for Punishment" on the Disciplinary Hearing Action Form (F-831-3) and electronically when available in the electronic offender file.
- e. The DHO shall not, under any circumstances, order Restitution between inmates, or between inmates and Staff. Restitution shall only be used as a tool to discourage the destruction or damage of property by causing inmates to take fiscal responsibility for such destruction, damage, or intentional misplacement.

K. Specific Prohibitions

1. No DHO shall conduct hearings when that officer is the charging person or has firsthand knowledge of a particular disciplinary episode.

2. No Staff shall communicate to a DHO, by way of suggestion or order, the finding or punishment that the DHO should find. An exception is Mental Health Staff completing a written 834 Form (Mental Health Form).
3. A DHO should make his/her decision based solely upon the evidence presented to them in disciplinary court and is not to be influenced by Staff or a supervisor about an inmate's guilt or innocence.
4. If the DHO is instructed as to making a finding on a disciplinary or on the punishment to assess, he/she shall disqualify himself/herself from hearing that disciplinary and will report the communication to the DHA.
5. Any DHO who believes that he/she is unable to render an objective decision in a particular case should request disqualification from that case. In the case of the DHA, the request will be made to the Director.
6. When the use of indecent or vulgar language is used by an inmate in the grievance process or there is a malicious use of the grievance procedure, disciplinary action may be filed against the inmate. Under such circumstances, the CSO or Warden, or their designee, will determine if a DR is warranted. If so, only the CSO or Warden, or their designee, may write and submit the report for processing. Under no circumstances shall the employee, who may be the subject of a grievance, write and submit a DR against the inmate submitting the grievance.
7. PREA Considerations. Inmates involved in sexual contact with ADC Staff, or any employees, volunteers, contractors and vendors of another law enforcement/correctional agency that have taken temporary custody of an ADC inmate for the purposes of transport, holding for court, contractual bed space, or other requirements, cannot be charged with a Rule Violation for this conduct. Under the Guidelines of the PREA, inmates cannot consent to such contact and are considered victims of a crime. In order to bring charges for sexual contact with any employee or other above categorized individual, the investigation must show that forcible rape or forced sexual contact occurred by the inmate towards the employee or agent. This does not include visitors or citizens not acting in some official capacity such as co-workers at a work release site.

L. Records

1. Not Guilty Verdicts. DRs which result in a finding of not guilty shall not be made a part of the inmate's permanent file although such finding will be documented in the electronic offender file.
2. Expungements. DRs which indicate a finding of guilt and which are Reversed by the Warden, DHA, or Director are to be expunged from the inmate's permanent file, but will remain a part of the offender's electronic record, and will be forwarded to the Warden or designee for filing as a matter of record. Such reversals shall also restore good time or class status which may have been reduced by the DHO.
3. Suspended Sentence. Inmates who are found guilty of Rule Violations and assessed punishment may receive a suspended imposition of the sentence. In such cases, the DR will become a part of the inmate's permanent file. If the inmate is found guilty of another Rule Violation during the period of a previously imposed suspended sentence, the suspended punishment must be revoked and imposed and additional punishment pursuant to the subsequent disciplinary episode may also be imposed. The punishment may be made consecutive.
4. Guilty Verdicts. All disciplinary hearing report forms which render a verdict of guilty shall be transmitted and entered into the electronic offender file by the DHO. The Unit Records Supervisor

shall make whatever changes are required regarding statutory good time, meritorious good time, parole interview date, and institutional status as part of the inmate's permanent file.

M. Major Disciplinary Forms

The Major Disciplinary Forms consist of six (6) separate forms. The Major Disciplinary Form (F-831-1), the Disciplinary Hearing Action Form (F-831-2), and the Disciplinary Hearing Action Form (F-831-3) must be completed entirely pursuant to every Major Disciplinary Hearing, regardless of the verdict. Data related to each form should be entered and maintained electronically when available in the electronic offender file. The ISSR 100 electronic printed form shall contain all data found in F-831-1, F-831-2, and F-831-3 after data entry.

1. The Major Disciplinary Form (F-831-1)

- a. The charging person is responsible for providing the DHO with accurate reports of Rule Violations. All information pertaining to the charge(s) must be detailed by the charging person. The charging person must sign an affirmation regarding the accuracy of the charges.
- b. The Serving Officer/Notifying Officer must indicate his/her name and the time and date the inmate was notified of the impending major disciplinary action. The inmate may call Witnesses at the time of notification by informing the notification officer of those individuals he/she wishes to call as Witnesses. The Serving Officer/Notifying Officer should then list the Witnesses called and instruct the inmate to sign the form under "Witness Statements." If the inmate refuses to sign, such refusal should be noted with the initials of the Serving Officer/Notifying Officer.
- c. The CSO (Building or Field Majors or their designees) must review each DR prior to a hearing for screening purposes. After indicating the appropriate decision, the CSO must initial and date the form under "C.S.O. Review."
- d. There must be an indication of whether an Extension was granted and, if so, whether the Extension Form was completed.
- e. The DHO is reminded of the policy on Counsel Substitutes. When assigned, it should be so indicated and the name of the Counsel Substitute entered. When not assigned, the appropriate space should be marked.
- f. A copy of the Major Disciplinary Form (F-831-1 or ISSR 100) shall be forwarded to the inmate.

2. The Disciplinary Action Form (F-831-2)

- a. The DHO must ensure that all information at the top of the Disciplinary Action Form (F-831-2) is correct. Care should be taken to note the time when the hearing starts and stops. If the inmate refuses to attend, there is a reminder that the waiver form must be completed. In all cases, the inmate's plea will be entered accurately.
- b. Statements made by inmates in their defense or otherwise should be entered in as great detail as possible under "Inmate's Statement."
- c. Under "Questions," the DHO should indicate the general line of questioning pursued. The DHO should probe for any and all additional information which could aid in reaching a fair determination of fact.
- d. The DHO must indicate the verdict reached and, if applicable, the punishment assessed, and shall indicate the class that the inmate may be placed in.

- e. Under "Factual Basis for Decision," the DHO must give a short statement of the facts as the DHO perceives them after reviewing all of the evidence. This section should not be confused with "Evidence Relied Upon" or "Reasons for Punishment." This should include a summary of the reasons for finding the inmate guilty or not guilty. In fulfilling this function, it is not sufficient to adopt and copy the exact wording of the DR.
- f. The inmate must be given a copy of the Disciplinary Action form.

3. The Disciplinary Action Form (F-831-3)

- a. Under "Evidence Relied Upon," the DHO must include a list of the individual pieces of evidence that were relied upon in reaching a disposition. Shorthand phrases such as "Officer's Statement" will not be sufficient to perform this function. The evidence must not only be described, but must be explained. The content of any evidence relied upon should be given. Thus, if a charging person's report is to be relied upon, the DHO should so state and then proceed to explain exactly what it was in the person's report that the DHO relied upon. In cases where weapons or contraband are involved, a notation should be made in the proper slot indicating the form in which it was observed and further describing the item with particularity.
- b. In any case where the DHO makes a finding of guilty notwithstanding the fact that there was some evidence which purported to exonerate the inmate, the DHO must include a statement indicating the reason why such evidence was discounted.
- c. Under "Reasons for Assessment of Punishment," the DHO must state why he/she felt the particular disciplinary warranted the punishment assessed.

It is not sufficient to state, "nature and seriousness of offense and past history." It is important that the DHO keep in mind that the purpose served is that of providing an independent reviewing authority with an adequate basis from which to determine why a particular inmate received the particular punishment imposed. Special care should be given to document reasons for differences in punishments given to different inmates in the same incident. Factors to be weighed in assessing the punishment should include, but not be limited to:

1. The seriousness of the offense and the extent to which the offense threatened institutional security;
2. The number of major disciplinaries received by the inmate for similar offenses, the overall institutional record of the inmate;
3. The attitude of the inmate including his/her willingness to cooperate fully with the DHO;
4. Personal factors which may have influenced the inmate to behave poorly (e.g., death in the family);
5. Inmate's willingness or lack thereof to return to work and perform as expected; any hostility which the inmate may have exhibited toward the DHO;
6. Any remorse the inmate may show regarding his/her behavior; any effect a contemplated punishment may or may not have in impressing upon the inmate the need for behavior modification;
7. Any effect a contemplated punishment may have in terms of rewarding the inmate with a second chance if the DHO believes behavior will improve as a result thereof;
8. The class status of the inmate should be kept in mind when assessing the punishment (punitive time may not be necessary for a Class I inmate if the DHO feels that a class

reduction would sufficiently impress upon the inmate the prohibition against the particular behavior).

As mentioned, the above are suggested factors to take into consideration when assessing punishment and are by no means exhaustive. The DHO should stay alert to any mitigating or aggravating circumstances associated with a particular disciplinary episode. The DHO must initial the "Reason for Punishment" in the appropriate space.

- d. The DHO must credit the inmate with any time spent in Restrictive Housing as a result of the behavior which is the subject of the disciplinary against any assessed Punitive Isolation sanction. For example, an inmate assigned to Punitive Housing when the behavior occurred does not get any credit; but an inmate who is assigned to Restrictive Housing from general population as a result of the behavior that result in the disciplinary being written will be given credit for the number of days in Restrictive Housing at the time the sanctions are issued. This credit does not extend the number of days of Punitive Housing that may be assessed. (Nor does the lack of Punitive Housing days determine whether an inmate may be assigned to Restrictive Housing pursuant to that policy.)
- e. A reminder is included regarding the proper procedures for informants and alleged malingers.
- f. The inmate, having been informed of the right to appeal, is instructed to sign the form indicating that he/she understands the right to appeal. If a Counsel Substitute has been assigned, he/she should also sign. If an inmate refuses to sign, the DHO should indicate by initialing the slot reserved for the inmate's signature.
- g. The DHO must sign and date the disciplinary form.
- h. The inmate must be provided a copy of Disciplinary Action Form (F-831-3).

4. The Major Disciplinary Appeal Form (F-831-4)

- a. The Major Disciplinary Appeal Form is self-explanatory. The inmate is to check yes beside "Punitive Housing" if the appeal is in reference to a finding of guilty on a particular disciplinary episode which resulted in the imposition of Punitive Housing as a disciplinary measure. This is designed to aid the inmate who has been sentenced to a relatively lengthy isolation period and who may have a valid appeal pertaining to guilt and/or punishment. The Warden should prioritize these appeals.
- b. Inmates serving short periods of punitive time should not be discouraged from utilizing the procedure, as their appeals will be expedited by the procedure. Inmates not serving punitive time are not permitted to mark yes beside "Punitive Appeal".

Appeal Forms will be available with carbon copies, and the original shall be submitted for the appeal. The copies remain with the inmate and will be submitted if the original is not returned within the policy's timeframes.

5. The Disciplinary Extension Form (F-831-5)

The Disciplinary Extension Form enumerates six (6) legitimate reasons for granting an Extension. If the DHO or Warden grants the Extension, a copy of the signed Form F-831-5 must be forwarded to the inmate.

6. The Waiver of Disciplinary Hearing Form (F-831-6)

Physical force shall not be used to secure the presence of the inmate before the DHO. All inmates shall be afforded the opportunity to be present before the DHO unless they waive that right in writing or through behavior. In the event an inmate refuses to appear, the "Waiver of Disciplinary Hearing Form"

must be filled out. The inmate will not be subjected to any further DRs as a result of availing himself/herself of the waiver procedure.

VIII. MINOR DISCIPLINE:

- A. Minor Discipline should be used as a tool to discourage less serious misconduct. The purpose of Minor DRs (Form F-831-7 and Electronic Form ISSR 102) is to sufficiently impress upon the inmate the need for behavior modification without burdening the inmate with the stigma that attaches to Major DRs. The Rule Violations for which an inmate may receive a Minor DR are identical to those violations for which a Major DR may be written. Minor DRs are within the discretion of the charging person.
- B. Due process considerations inherent in the major disciplinary process shall not apply to minor disciplinarys; however, the inmate shall be allowed to be present and to make a statement on his/her behalf.
- C. Minor Disciplinarys
1. Each Unit Warden shall establish and designate a MDO to hear and dispose of any and all minor infractions of institutional rules and regulations.
 2. The MDO at each unit shall be nominated by the CSO of the Building or Field and approved by the Warden. The charging officer cannot serve as the MDO on any charges he/she initiated or witnessed.
 3. An officer must have attained the rank of Lieutenant with at least three (3) years of experience as a correctional officer to serve as a MDO.
 4. The MDO will hear charges as often as necessary and at a place and a time convenient to expeditiously administer the institutional minor disciplinary functions. These hearings will be conducted within seven (7) Business Days of the incident.
 5. Upon hearing the charges against the inmate, the inmate's defense and testimony, the MDO shall render his/her decision as to guilt or innocence and the appropriate action to be taken.
 6. The MDO, upon determining that an inmate is guilty of a minor violation of institutional rules and regulations, may take any or all of the following actions:
 - a. Warn, reprimand, or excuse the inmate.
 - b. Revoke privileges for up to twenty (20) days.
 - c. Assign extra duty (extra duty will be useful work that is not intended as harassment). No inmate shall be worked past his/her regular bedtime nor will be allowed to do any extra duty assessed by the MDO in lieu of his/her regular work assignment. Extra duties must not exceed two (2) hours per day and a maximum of ten (10) days.
 7. At no time shall an inmate be put in Restrictive Housing by the decision of the MDO. Good Time and Class Status shall not be reduced by the MDO.
 8. Disciplinary action should be taken by the MDO as soon as possible after the discovery of the violation. Any minor disciplinary action which has not been heard after seven (7) Business Days shall be dismissed.
 9. The Minor Disciplinary Form (F-831-7) shall be filled out in its entirety for each infraction and entered electronically when available in the electronic offender file.

10. Minor DRs will not be made a part of the inmate's permanent file, but will be recorded in the Offender's electronic record. After the MDO has completed his/her daily functions, the minor DR shall be forwarded to the CSO for separate filing as a matter of record.
11. Once the MDO has disposed of a minor disciplinary, the decision shall not be changed or altered in any manner by the MDO.
12. Findings of the MDO may be appealed to the CSO. The CSO may affirm, reverse or modify the decision of the MDO. The CSO's decision is final. The CSO may not uphold a sanction that imposes Punitive Isolation, or a reduction of Good Time or Class Status of an inmate.
13. The CSO must submit to the Warden a monthly report of the minor disciplinary actions. The Warden must maintain a file of these reports and have them available for review by the DHA. The Warden and DHA must ensure that each inmate is treated fairly and equitably.

IX. SANCTIONS:

Any employee who violates this policy will be subject to disciplinary action which may include termination.

X. ATTACHMENTS:

1. Major Disciplinary F-831-1
2. Disciplinary Hearing Action F-831-2
3. Disciplinary Hearing Action F-831-3
4. Major Disciplinary Appeal Form
5. Disciplinary Extension Form
6. Waiver Of Disciplinary Hearing
7. Minor Disciplinary Report



F-831-1

ARKANSAS DIVISION OF CORRECTION

AR 831

_____ Unit

MAJOR DISCIPLINARY

Inmate _____ ADC # _____ Assignment _____
Class _____ is being charged by _____ Title _____
with Rule Violation(s) _____ Time & Date _____

NOTICE OF CHARGES

(I affirm that the information in this report is true to the best of my knowledge)

Signature of Charging Officer

NOTIFICATION: Officer _____ Date & Time Notified _____

Inmate's Signature

Witness: YES ___ NO ___

List of Witness:

C.S.O. REVIEW: Reduce ___ Dismiss ___ To Disc. Court ___ Initial ___ Date _____

EXTENSION: No ___ Yes ___ ; Has Extension form been completed? _____

Presentation by Counsel Substitute is required when it is determined that the inmate is illiterate or incompetent or that the issues are extraordinarily complex.

COUNSEL SUBSTITUTE Assigned (Name) _____



F-831-2

ARKANSAS DIVISION OF CORRECTION

AR 831

_____ UNIT

DISCIPLINARY HEARING ACTION

Inmate _____ ADC # _____ Rule Violation(s) _____
Date of Alleged Offense(s) _____ Time of Alleged Offense(s) _____
Hearing Date _____ Time: Start _____ End _____
Recorder _____ Tape # _____ Side _____ Meter: From _____ To _____
Plea: _____ Attendance Waived: Yes _____
Has waiver form been completed? _____

Inmate's Statement:

Signature of Inmate

Court Questions:

Verdict: _____ Punishment: _____

Factual Basis for Decision: (This is a short synopsis of the facts as the DHO perceives them after reviewing all of the evidence.)

DHO 's Initials _____



F-831-3

ARKANSAS DIVISION OF CORRECTION

AR 831

_____ UNIT

DISCIPLINARY HEARING ACTION

Inmate _____ ADC # _____ Date _____

Evidence Relied Upon:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

7. If relevant, contraband observed: Actual Item _____ Photo _____ Receipt _____

Describe: _____

Reasons Why Information Purporting to Exonerate Inmate Was Discounted:

Reasons for Assessment of Punishment:

DHO 's Initials _____

The DHO is reminded that if an informant provided firsthand information in the case, then that informant's name and written statement must only be presented to the Disciplinary Court. This information will be retained with the Disciplinary tape by the DHO Administrator, also, if an inmate claimed to have been sick, the opinion of the infirmary examiner must be obtained.

I have read this report and understand that I may appeal to the Warden about any decision made in this matter within fifteen (15) days by completing the "Disciplinary Appeal" form.

Inmate's Signature _____ Counsel Substitute _____

DHO - I affirm that the information is true to the best of my knowledge.

DHO _____

Signature

Date



F-831-4

Major Disciplinary Appeal Form

Inmate Name _____ ADC# _____

Unit/Center _____ Punitive Housing _____ Yes _____ No

Disciplinary (date) _____ by (charging officer) _____

_____ Appeal to Warden/Deputy Warden. Note, if you do not agree with the decision of the
Date DHO, you have 15 Business Days from receipt of disciplinary action to appeal to the
Warden/Deputy Warden.

Warden's Decision: Affirm _____ Reverse _____ Modify _____ Reject _____
(See attached if Modified or Rejected.)

Signature: _____ Date _____

_____ Appeal to Disciplinary Hearing Administrator (DHA). Note, if you do not agree with the
Date response of the Warden/Deputy Warden, you may appeal to the Disciplinary Hearing
Administrator within 15 Business Days of receipt of the Warden/Deputy Warden's
response.

DHA's Decision: Affirm _____ Reverse _____ Modify _____ Reject _____
(See attached if Modified or Rejected)

Signature: _____ Date _____

_____ Appeal to Director. Note, if you do not agree with the Disciplinary Hearing
Date Administrator's response, you may appeal to the Director within 15 Business Days of
receipt of the Disciplinary Hearing Administrator's decision.

Director's Decision: Affirm _____ Reverse _____ Modify _____ Reject _____
(See attached if Modified or Rejected.)

Signature: _____ Date _____

Notice to Inmate: This form is to be used for all appeal levels and responses. Briefly state reasons why conviction or punishment should be Reversed or Modified. This information will be considered at all three levels of appeal. Only information that is contained within this space on this form will be considered:

Inmate's Signature: _____ Date: _____



F-831-5

ARKANSAS DIVISION OF CORRECTION

AR 831

Unit
DISCIPLINARY EXTENSION FORM

TO:

FROM:

RE: Disciplinary Dated _____ at _____ For Rule Violation(s) _____

DATE:

This is to inform you I am extending your Disciplinary Hearing for a period of _____*additional working days for the following reasons:

- () Inmate is out to court/hospital, or otherwise off the Unit/Center.
- () Awaiting the decision of the prosecuting attorney regarding the filing of a felony charge.
- () The case requires more extensive investigation. The following is needed:

- () Volume of Disciplinarys scheduled for hearing is excessive and more time is needed to ensure a fair determination in each case.
- () Emergency situation exists at the unit.

Retroactive Extension:

() Escaped inmate, not in custody. Returned to Unit _____
Date Time

Signature Warden/Deputy Warden, DHO Date Time

Copy delivered to inmate by: _____ on _____
Signature Date Time

cc: File

*An Extension may be granted up to five (5) Business Days. If greater length of time is needed, then the Extension must be renewed and will not exceed five (5) days per Extension. The Director must approve any Extension over thirty (30) days total.

Director's Signature Date Length of Extension

This Extension will expire on _____ at _____
Date Time



F-831-6

Arkansas Division of Correction
_____Unit
WAIVER OF DISCIPLINARY HEARING

AR 831

Date of Disciplinary _____

Time: _____

Rule Violation(s) _____

I, Inmate _____, ADC # _____,
waive my right to a hearing.

I agree to this of my own free will, without coercion from any employee of the Arkansas Division of Correction.

Signed: _____ ADC # _____

Note: If the inmate refuses to attend the hearing and refuses to sign, complete section below.

Inmate _____, ADC # _____,
refused to attend the hearing and refuses to sign the waiver form.

Date: _____ Time: _____

Signature of Officer Witnessing refusal: _____

Reviewed by Deputy Warden: _____



F-831-7

Arkansas Division of Correction
_____ Unit
MINOR DISCIPLINARY REPORT

AR 831

Date _____ Time _____ Reporting Officer _____
Name of Inmate: _____ Number _____ Job _____

CHARGE OR OFFENSE:

DISPOSITION (Check One)

Extra Duty _____
(Describe Briefly)

Loss of Privilege _____
(Describe Briefly)

Warning & Reprimand _____
(Describe Briefly)

Not Guilty

Disciplinary Hearing Officer

Hearing Date/Time _____

Date Penalty Served _____ Shift Supervisor _____