

<p align="center">MONTGOMERY COUNTY SHERIFF'S OFFICE</p> <p align="center">CORRECTIONS DIVISION</p> <p align="center">POLICY AND PROCEDURES</p> <p align="center">INCARCERATED INDIVIDUAL MANAGEMENT</p>	<p align="center">NUMBER: CD 04-02-00</p> <p align="center">EFFECTIVE DATE: 05/21/07</p> <p align="center">REVISION DATE: 04/28/2022</p> <p align="center">PAGE: 1 OF 1 PAGES</p>
<p>SUBJECT: DISCIPLINARY PROCEDURES (GENERAL POLICIES)</p>	<p>DISTRIBUTION: ALL AUTHORIZED PERSONNEL</p>
<p>AUTHORITY: SHERIFF</p>	<p>ISSUED BY: ADMINISTRATOR</p>
<p>REFERENCES: SCOC #7006, #7075, #7076</p>	

POLICY: IN ORDER TO PROMOTE THE SAFETY, SECURITY AND WELFARE OF ALL INCARCERATED INDIVIDUALS AND STAFF WITHIN MONTGOMERY COUNTY CORRECTIONAL FACILITY, THE CHIEF ADMINISTRATIVE OFFICER HAS ESTABLISHED A SYSTEM OF INCARCERATED INDIVIDUAL DISCIPLINE DESIGNED TO SET STANDARDS OF APPROPRIATE BEHAVIOR, ENCOURAGE SELF CONTROL AND PUNISH MISBEHAVIOR FAIRLY, IMPARTIALLY AND CONSISTENTLY. IT IS THE AFFIRMATIVE DUTY OF ALL STAFF TO ENSURE THAT INCARCERATED INDIVIDUALS ARE TREATED HUMANELY AND THAT PROPER DISCIPLINE IS MAINTAINED.

PURPOSE: DISCIPLINE IS AN ESSENTIAL PART OF CORRECTIONAL TREATMENT. WHEN APPLIED FAIRLY AND REASONABLY IT IS A POSITIVE FACTOR OF INCARCERATED INDIVIDUAL REHABILITATION AND CONTRIBUTES SIGNIFICANTLY TO THE OPERATION AND MORALE OF A CORRECTIONAL FACILITY.

DEFINITIONS:

FORMAL DISCIPLINE: A DOCUMENTED DISCIPLINARY PROCESS THAT ADDRESSES INCIDENTS THAT INVOLVE INCARCERATED INDIVIDUALS BEING CHARGED WITH RULE INFRACTIONS OR REPEAT OFFENSES OF RULE VIOLATIONS.

INFORMAL DISCIPLINE: THE LEAST RESTRICTIVE METHOD OF ADDRESSING MINOR ISSUES BETWEEN OFFICER'S AND INCARCERATED INDIVIDUAL'S.

REGULAR CONFINEMENT: IS THE CONFINEMENT OF AN INCARCERATED INDIVIDUAL TO A HOUSING AREA IN WHICH THEY ARE ALLOWED AT LEAST SEVEN (7) HOURS OUT-OF-CELL TIME, IT IS **NOT** CONSIDERED SEGREGATED CONFINEMENT. **EXAMPLE** - A DIRECT SUPERVISION POD THAT HAS SUB-DAYROOMS TO SAFELY ALLOW A CONFINED INCARCERATED INDIVIDUAL OUT OF THEIR CELL.

SPECIAL POPULATION: SHALL MEAN ANY INCARCERATED INDIVIDUAL:

1. TWENTY-ONE (21) YEARS OR YOUNGER;
2. 55 YEARS OF AGE OR OLDER;
3. WITH A DISABILITY, AS DEFINED IN SECTION 292 OF EXECUTIVE LAW;
4. WHO IS PREGNANT, IN THE FIRST 8 WEEKS OF THE POST-PARTUM RECOVERY PERIOD AFTER GIVING BIRTH, OR CARING FOR A CHILD IN THE FACILITY.

CHIEF ADMINISTRATIVE OFFICER: THE HIGHEST-RANKING FACILITY OFFICIAL PRESENT DURING THE TIME PERIOD IN WHICH A DETERMINATION MUST BE RENDERED.

VIOLENT FELONY ACT: CAUSING OR ATTEMPTING TO CAUSE SERIOUS PHYSICAL INJURY OR DEATH TO ANOTHER PERSON OR MAKING AN IMMINENT THREAT OF SUCH SERIOUS PHYSICAL INJURY OR DEATH AND THE CAO REASONABLY DETERMINES THAT THERE IS A STRONG LIKELIHOOD THAT THE PERSON WILL CARY OUT SUCH THREAT.

PROCEDURE:

A. RULE VIOLATIONS - INFORMAL DISCIPLINE:

1. ANY OFFICER WHO OBSERVES A RULE VIOLATION OR HAS REASONABLE BELIEF THAT THE VIOLATION DID OCCUR SHALL:
 - A. DISCUSS THE VIOLATION WITH THE INCARCERATED INDIVIDUAL INVOLVED.
 - B. GIVE THE INCARCERATED INDIVIDUAL AN OPPORTUNITY TO PRESENT HIS/HER EXPLANATION OF THE VIOLATION.
 - C. DISCUSS A SUITABLE DISPOSITION OR SANCTION FOR THE VIOLATION ONLY IF THE INCARCERATED INDIVIDUAL ADMITS GUILT OF THE ALLEGED VIOLATION.
 - D. EXPLAIN TO THE INCARCERATED INDIVIDUAL THAT THIS VIOLATION HAS BEEN RESOLVED INFORMALLY.
 - E. MAKE A NOTATION OF THE RULE VIOLATION IN THE HOUSING UNIT LOG.

- F. MAKE A LOG ENTRY UTILIZING THE DISCIPLINE CATEGORY WITH INFORMAL DISCIPLINE BEING THE STANDARD ENTRY AND ATTACH THE INCARCERATED INDIVIDUAL NAME TO THE LOG ENTRY IN SALLYPORT.
- 2. IF THE INCARCERATED INDIVIDUAL DOES NOT ADMIT GUILT OF THE ALLEGED VIOLATION. THIS MATTER SHALL BE HANDLED THROUGH THE FORMAL DISCIPLINARY PROCESS.
 - A. EXAMPLES OF RULE VIOLATIONS:
 - 1. WASTE OF FOOD.
 - 2. FAILURE TO MAINTAIN AN ORDERLY CELL.
 - 3. USE OF OBSCENE LANGUAGE OR VERBAL ABUSE.
 - 4. DISORDERLY CONDUCT, WHICH DOES NOT HINDER THE SAFETY AND GOOD ORDER OF THE FACILITY OR OTHERS.
 - 5. HORSEPLAY, WHICH DOES NOT HINDER THE SAFETY AND GOOD ORDER OF THE FACILITY OR OTHERS.

A COMPLETE LIST OF RULE VIOLATIONS CAN BE FOUND IN THE INCARCERATED INDIVIDUAL HANDBOOK.

- B. EXAMPLES OF INFORMAL DISCIPLINE (SANCTIONS):
 - 1. WARNING;
 - 2. CONFINEMENT TO A CELL, FOR A PERIOD CONSISTENT WITH THE FACILITY RULES OF INCARCERATED INDIVIDUAL CONDUCT FOR THE PARTICULAR OFFENSE(S), UP TO 8 HOURS OF ACTIVE SUPERVISION, SUBJECT TO THE PROVISIONS OF SECTION 7075.

B. CATEGORIES OF OFFENSES: (THESE OFFENSES SHALL BE HANDLED THROUGH THE FORMAL DISCIPLINARY PROCESS):

NOTE - THE OFFENSES ARE DESCRIBED IN DETAIL IN THE INCARCERATED INDIVIDUAL HANDBOOK.

- 1. MAJOR VIOLATION:

- A. LOSS OF ONE OR MORE PRIVILEGES FOR A SPECIFIED PERIOD OF TIME; INCLUDING BUT NOT LIMITED TO; (LOSS OF FOOD COMMISSARY PRIVILEGES, FACILITY TABLET PRIVILEGES, PERSONAL PHONE CALL PRIVILEGES);
- B. RESTITUTION;
- C. RESTITUTION, NOT TO EXCEED ONE HUNDRED (\$100.00) DOLLARS, FOR FACILITY EXPENDITURES RELATED TO THE MEDICAL TREATMENT OF FACILITY STAFF, MADE FROM EXISTING OR FUTURE FUNDS IN THE INCARCERATED INDIVIDUAL'S ACCOUNT;
- D. LOSS OF A PERIOD OF GOOD BEHAVIOR ALLOWANCE (GOOD TIME);
- E. CONFINEMENT TO THEIR CELL FOR A PERIOD UP TO, BUT NOT MORE THAN 30 DAYS PER VIOLATION. ANY INCARCERATED INDIVIDUAL CONFINED IN A CELL SHALL BE ALLOWED OUT OF THEIR CELL FOR **SEVEN (7) HOURS PER DAY, THIS INCLUDES 1 HOUR OF EXERCISE, PHONE CALLS AND SHOWER TIME**. UNLESS DOING SO WOULD CONSTITUTE A THREAT TO THE SAFETY AND SECURITY OF THE INCARCERATED INDIVIDUAL, STAFF OR THE FACILITY. AS DETERMINED BY THE CHIEF ADMINISTRATIVE OFFICER.
- F. LOSS OF UP TO 1 HOUR OF WEEKLY VISITATION

- G. EXAMPLES OF MAJOR VIOLATIONS:
 - 1. 17 (A) ASSAULT AND FIGHTING
 - 2. 4 (A) ESCAPING OR CONSPIRING TO ESCAPE
 - 3. 17 (H) THREATS
 - 4. 14 (A) SMUGGLING AND THEFT

2. MINOR VIOLATION:
- A. WARNING;
 - B. RESTITUTION FOR THE LOSS OR DAMAGE OF PROPERTY MADE FROM EXISTING OR FUTURE FUNDS IN THE INCARCERATED INDIVIDUAL'S ACCOUNT;
 - C. EARLY LOCK-IN;
 - D. LOSS OF A PERIOD OF GOOD BEHAVIOR ALLOWANCE ("GOOD TIME");
 - E. CONFINEMENT TO THEIR CELL FOR A PERIOD UP TO, BUT NOT MORE THAN 15 DAYS PER VIOLATION; ANY INCARCERATED INDIVIDUAL CONFINED IN A CELL SHALL BE ALLOWED OUT OF THEIR CELL FOR **SEVEN (7) HOURS PER DAY, THIS INCLUDES 1 HOUR OF EXERCISE, PHONE CALLS AND SHOWER TIME.** UNLESS DOING SO WOULD CONSTITUTE A THREAT TO THE SAFETY AND SECURITY OF THE INCARCERATED INDIVIDUAL, STAFF OR THE FACILITY. AS DETERMINED BY THE CHIEF ADMINISTRATIVE OFFICER.
 - F. LOSS OF ONE OR MORE PRIVILEGES FOR A SPECIFIED PERIOD OF TIME. INCLUDING BUT NOT LIMITED TO; (LOSS OF FOOD COMMISSARY PRIVILEGES, FACILITY TABLET PRIVILEGES, PERSONAL PHONE CALL PRIVILEGES)
 - G. LOSS OF UP TO 1 HOUR OF WEEKLY VISITATION
 - H. EXAMPLES OF MINOR VIOLATIONS:
 - 1. 2 (I) SHIELDING OR BLOCKING ANY LIGHT FIXTURE, VENT OR CELL WINDOW
 - 2. 4 (B) ENGAGING IN CONDUCT THAT DISTURBS THE GOOD ORDER OF THE FACILITY (ARGUING).
 - 3. 8 (H) INCARCERATED INDIVIDUALS ASSIGNED IN DOWNSTAIRS CELLS ARE PROHIBITED FROM BEING UPSTAIRS.

NOTE: 3 OR MORE OF THE SAME MINOR VIOLATION SHALL BE CLASSIFIED AS A MAJOR VIOLATION

C. FORMAL DISCIPLINE:

1. OFFICER SHALL WRITE AN INCIDENT REPORT WHICH SHALL INCLUDE:
 - A. DATE, TIME AND PLACE OF VIOLATION AND DATE AND TIME REPORT IS WRITTEN;
 - B. THE RULES ALLEGEDLY VIOLATED AND/OR PENAL LAW SECTION IF APPLICABLE;
 - C. THE NAME (S) OF INCARCERATED INDIVIDUALS CHARGED WITH THE VIOLATION, THEIR CHN NUMBER AND DOB.
 - D. THE NAME(S) OF EACH OFFICER INVOLVED, BADGE NUMBERS.
 - E. A LIST OF ALL PROPERTY IF DAMAGED, STOLEN OR CONFISCATED;
 - F. A DESCRIPTION OF THE INCIDENT OR BEHAVIOR INVOLVED AND THE CIRCUMSTANCES IDENTIFYING THE RULES ALLEGEDLY VIOLATED AND/OR PENAL LAW SECTION IF APPLICABLE.
 - G. THE REPORTING OFFICER'S SIGNATURE AND DATE.
2. THE OFFICER SHALL GENERATE AN ADMINISTRATIVE SEGREGATION REPORT (IF APPLICABLE), USE OF FORCE REPORT (IF APPLICABLE) AND A MISBEHAVIOR REPORT CHARGING THE INCARCERATED INDIVIDUAL WITH THE ALLEGED VIOLATION (S). IF THERE IS MORE THAN ONE CHARGE FILED AGAINST AN INCARCERATED INDIVIDUAL, THE OFFICER MUST STATE EACH CHARGE AND THE EVIDENCE FOR EACH SEPARATELY IN THE INCIDENT REPORT.
3. THE ON DUTY SUPERVISOR SHALL REVIEW AND SIGN ALL REPORTS AND PAPERWORK. THE ON DUTY SUPERVISOR SHALL ENSURE THAT ALL SUPPLEMENTAL REPORTS ARE COMPLETED IF APPLICABLE. ORIGINAL PAPERWORK SHALL BE KEPT TOGETHER AND COPIES WILL BE PLACED IN THE INCARCERATED INDIVIDUALS FILE.

D. ADMINISTRATIVE SEGREGATION PENDING A DISCIPLINARY HEARING:

1. AN INCARCERATED INDIVIDUAL WHO THREATENS THE SAFETY, SECURITY, AND GOOD ORDER OF THE FACILITY MAY BE IMMEDIATELY CONFINED IN A CELL OR ROOM PENDING A DISCIPLINARY HEARING AND MAY BE RETAINED IN ADMINISTRATIVE SEGREGATION UNTIL THE COMPLETION OF THE DISCIPLINARY PROCESS, **SUBJECT TO THE LIMITATIONS OF PARTS 7075, 7076 AND 7077.**

A. ANY INCARCERATION INDIVIDUAL PLACED IN ADMINISTRATIVE SEGREGATION PENDING A DISCIPLINARY HEARING SHALL, AS EXPEDITIOUSLY AS POSSIBLE, BUT IN NO CASE LONGER THAN FORTY-EIGHT (48) HOURS FROM THE TIME OF SUCH PLACEMENT, BE GIVEN AT LEAST SEVEN (7) HOURS A DAY OUTSIDE HIS OR HER ASSIGNED INDIVIDUAL OCCUPANCY UNIT.

B. INCARCERATED INDIVIDUALS PLACED IN ADMINISTRATIVE SEGREGATION PENDING A DISCIPLINARY HEARING WILL HAVE ALL PRIVILEGES SUSPENDED, PENDING THE RESULTS OF THAT DISCIPLINARY HEARING.

2. WITHIN 24 HOURS OF SUCH CONFINEMENT, THE INCARCERATED INDIVIDUAL SHALL BE PROVIDED WITH A WRITTEN STATEMENT SETTING FORTH THE REASON(S) FOR SUCH CONFINEMENT. UPON RECEIPT OF THE WRITTEN STATEMENT, THE INCARCERATED INDIVIDUAL SHALL BE PROVIDED WITH AN OPPORTUNITY TO RESPOND TO SUCH STATEMENT ORALLY OR IN WRITING TO THE CHIEF ADMINISTRATIVE OFFICER.
3. THE CHIEF ADMINISTRATIVE OFFICER SHALL REVIEW THE ADMINISTRATIVE CONFINEMENT WITHIN 24 HOURS OF SUCH CONFINEMENT IN ORDER TO DETERMINE IF CONTINUED CONFINEMENT IS WARRANTED, AND THEREAFTER AT INTERVALS NOT TO EXCEED SEVEN DAYS. ANY SUCH REVIEW SHALL BE MADE BY THE CHIEF ADMINISTRATIVE OFFICER IN WRITING, SHALL STATE THE SPECIFIC FACTS AND REASONS UNDERLYING THE DETERMINATION, AND SHALL BE MAINTAINED AS PART OF THE CENTRALIZED RECORD, PER SCOC #7075.6.

E. MISBEHAVIOR REPORTS:

1. WHEN A STAFF MEMBER HAS A REASONABLE BELIEF THAT AN INCARCERATED INDIVIDUAL HAS COMMITTED AN OFFENSE THAT CONSTITUTES A VIOLATION OF THE FACILITY'S RULES OF INCARCERATED INDIVIDUAL CONDUCT, AND SUCH VIOLATION IS NOT INFORMALLY RESOLVED, SUCH STAFF MEMBER SHALL PREPARE A WRITTEN MISBEHAVIOR REPORT.
2. EACH MISBEHAVIOR REPORT SHALL INCLUDE:
 - A. THE NAME(S) OF THE INCARCERATED INDIVIDUAL(S) CHARGED WITH THE MISCONDUCT;
 - B. THE DATE, TIME AND PLACE OF OCCURRENCE;
 - C. A DESCRIPTION OF THE INCIDENT OR BEHAVIOR INVOLVED AND THE RULE(S) ALLEGEDLY VIOLATED;
 - D. THE DATE AND TIME THE REPORT IS WRITTEN;

- E. THE REPORTING STAFF MEMBER'S PRINTED NAME AND SIGNATURE.
- 3. IF TWO OR MORE VIOLATIONS ARE INVOLVED, ALL MAY BE INCORPORATED IN A SINGLE REPORT, SEPARATELY STATED. EACH VIOLATION SHALL BE DISPOSED OF SEPARATELY.
- 4. IF MORE THAN ONE INCARCERATED INDIVIDUAL IS INVOLVED IN ANY INCIDENT, THE FACTS AND CIRCUMSTANCES SURROUNDING EACH INCARCERATED INDIVIDUAL'S INVOLVEMENT SHALL BE SEPARATELY STATED IN THE MISBEHAVIOR REPORT.
- 5. THE INCARCERATED INDIVIDUAL CHARGED WITH THE VIOLATION SHALL BE ISSUED A COPY OF THE MISBEHAVIOR REPORT AS SOON AS PRACTICABLE, BUT IN NO EVENT LATER THAN 24 HOURS PRIOR TO A HEARING BASED UPON THE INCIDENT GIVING RISE TO SUCH REPORT.

F. ADMINISTRATION OF SANCTIONS:

- 1. CIVILIAN STAFF SHALL NOT ADMINISTER ANY DISCIPLINARY SANCTIONS.
- 2. OFFICERS MAY ADMINISTER VERBAL REPRIMANDS AND UTILIZE INFORMAL DISCIPLINARY SANCTIONS.
- 3. THE DISCIPLINARY HEARING OFFICER SHALL ADMINISTER THE PLACEMENT OF AN INCARCERATED INDIVIDUAL INTO DISCIPLINARY SEGREGATION AND DECREASE THE GOOD BEHAVIOR ALLOWANCE IN ACCORDANCE WITH THE DISCIPLINARY HEARING PROCEDURE.
- 4. THE DISCIPLINARY HEARING OFFICER MAY SUSPEND THE COMMENCEMENT OF THE SANCTIONS FOR A PERIOD OF UP TO 30 DAYS IN ORDER TO ASSESS THE BEHAVIORAL ADJUSTMENT OF THE INCARCERATED INDIVIDUAL. AT THE CONCLUSION OF SUCH PERIOD, THE DISCIPLINARY HEARING OFFICER SHALL DETERMINE WHETHER THE SANCTIONS SHALL COMMENCE IN WHOLE OR IN PART OR SHALL BE SUSPENDED IN WHOLE OR IN PART.
- 5. IF AN INCARCERATED INDIVIDUAL IS FOUND GUILTY OF A CHARGE OF MISBEHAVIOR, A DISCIPLINARY SURCHARGE OF \$25.00 SHALL BE IMPOSED UPON THE INCARCERATED INDIVIDUAL IN ADDITION TO THE SANCTIONS AUTHORIZED BY THE DISCIPLINARY HEARING OFFICER.
- 6. DISCIPLINARY SURCHARGES NOT COLLECTED BECAUSE OF INDIGENCY CAN LATER BE COLLECTED UPON AN INCARCERATED INDIVIDUAL'S RELEASE AND SUBSEQUENT COMMITMENT TO THE JAIL. RESTITUTION MAY BE COLLECTED FROM AN

INCARCERATED INDIVIDUAL "FROM EXISTING OR FUTURE FUNDS IN AN INCARCERATED INDIVIDUAL'S ACCOUNT" TO SATISFY A PAST DEBT.

G. INVESTIGATION PROCESSES:

1. AN INVESTIGATION INTO THE FACTS AND CIRCUMSTANCES OF THE INCIDENT SHALL BE INITIATED IF THE CHIEF ADMINISTRATIVE OFFICER DETERMINES THAT THE CIRCUMSTANCES WARRANT SUCH AN INVESTIGATION.
 - A. IN THOSE CASES WHERE AN INVESTIGATION IS DEEMED NECESSARY, THE INVESTIGATION SHALL BE CONDUCTED BY PERSONS WHO WERE NOT INVOLVED IN THE INCIDENT, AND A COMPLETED REPORT SHALL BE PROVIDED TO THE HEARING OFFICER PRIOR TO ANY HEARING BASED ON THE INCIDENT INVESTIGATED.
 - B. THE INVESTIGATION SHALL INCLUDE A REVIEW OF ALL REPORTS, PHYSICAL OR MEDICAL EVIDENCE, VICTIM OR WITNESS STATEMENTS OR OTHER MATERIAL AVAILABLE. ALL FINDINGS SHALL BE MADE AVAILABLE TO THE DISCIPLINARY HEARING OFFICER.
 - C. THE DISCIPLINARY INVESTIGATION AND HEARING SHALL BE CONDUCTED BY PERSONNEL WHO WERE NOT INVOLVED IN THE INITIAL INCIDENT.
 - D. ANY DECISION OF THE DISCIPLINARY HEARING OFFICER SHALL BE WITHIN THE ALLOWABLE SANCTIONS.
 - E. THE DISCIPLINARY HEARING OFFICER IS NOT REQUIRED TO ACCEPT A PLEA FROM THE INCARCERATED INDIVIDUAL CHARGED WITH AN OFFENSE. THEY CAN REJECT THE PLEA AND CONTINUE WITH THE DISCIPLINARY HEARING.

H. DISCIPLINARY HEARINGS (INCARCERATED INDIVIDUAL ASSISTANCE):

1. ASSISTANCE FOR INCARCERATED INDIVIDUALS, WHO ARE NON-ENGLISH SPEAKING, ILLITERATE OR FOR ANY OTHER REASON UNABLE TO PREPARE A DEFENSE, SHALL BE AVAILABLE.
2. ASSISTANCE TO BE PROVIDED SHALL INCLUDE:
 - A. INTERVIEWING WITNESSES;
 - B. OBTAINING EVIDENCE OR EXISTING WRITTEN STATEMENTS;

- C. PROVIDING ASSISTANCE AT THE HEARING;
- D. UNDERSTANDING EVIDENCE RELIED ON BY THE DISCIPLINARY HEARING OFFICER AND UNDERSTANDING THE ACTIONS TAKEN;
- E. PROVIDING ASSISTANCE IN UNDERSTANDING ADMINISTRATIVE SEGREGATION DECISIONS;
- F. UNDERSTANDING THE WAIVER OF ANY RIGHTS.

I. DISCIPLINARY HEARING:

1. THE DISCIPLINARY HEARING OFFICER SHALL PREPARE FOR A HEARING BY COMPLETING THE FOLLOWING:
 - A. PREPARATION OF ALL REQUIRED DISCIPLINARY HEARING FORMS;
 - B. A HEARING SHALL BE COMPLETED WITHIN FIVE BUSINESS DAYS OF ITS CONVENING, UNLESS OTHERWISE AUTHORIZED BY THE CHIEF ADMINISTRATIVE OFFICER, BUT NO LONGER THAN 15 BUSINESS DAYS OF RECEIPT OF THE MISBEHAVIOR REPORT. THE HEARING MAY NOT BE HELD SOONER THAN 24 HOURS FROM NOTIFICATION UNLESS THE INCARCERATED INDIVIDUAL WAIVES THE 24-HOUR PREPARATION PERIOD IN WRITING, SUCH WAIVER SHALL NOT BE EFFECTIVE UNLESS MADE IN WRITING.
 - C. SHOULD THE HEARING NOT BE COMPLETED WITHIN THE ABOVE TIME FRAME; ALL FACILITY DISCIPLINARY CHARGES SHALL BE DISMISSED.
2. THE DISCIPLINARY HEARING OFFICER SHALL CONDUCT THE HEARING AS FOLLOWS:
 - A. BRING THE ACCUSED INCARCERATED INDIVIDUAL BEFORE HIM/HER; UNLESS THE INCARCERATED INDIVIDUAL WAIVED THEIR RIGHT TO BE PRESENT OR THE DISCIPLINARY HEARING OFFICER DETERMINES THAT THE INCARCERATED INDIVIDUAL'S PRESENCE WILL JEOPARDIZE THE SAFETY, SECURITY OR GOOD ORDER OF THE FACILITY. A WAIVER OF THE RIGHT TO BE PRESENT SHALL BE MADE IN WRITING AND SIGNED BY THE INCARCERATED INDIVIDUAL. IF THE INCARCERATED INDIVIDUAL REFUSES TO SIGN SUCH WAIVER, IT SHALL BE NOTED IN THE RECORD. A HEARING OFFICER'S DETERMINATION THAT AN INCARCERATED INDIVIDUAL'S PRESENCE WILL JEOPARDIZE THE SAFETY, SECURITY OR GOOD ORDER OF THE FACILITY SHALL BE DOCUMENTED IN THE HEARING RECORD.

- B. THE INCARCERATED INDIVIDUAL SHALL BE GIVEN THE OPPORTUNITY TO SPEAK ON HIS OWN BEHALF AT THE HEARING AND ALLOWED TO CALL WITNESSES, PRESENT EVIDENCE IN HIS DEFENSE IF RELEVANT AND NOT REDUNDANT, AND WHEN DOING SO WOULD NOT JEOPARDIZE THE SECURITY, SAFETY AND GOOD ORDER OF THE FACILITY. THE HEARING OFFICER'S DETERMINATION THAT A PARTICULAR WITNESS OR THE INTRODUCTION OF PARTICULAR EVIDENCE IS IRRELEVANT, REDUNDANT OR WILL JEOPARDIZE THE SECURITY, SAFETY AND GOOD ORDER OF THE FACILITY SHALL BE DOCUMENTED IN THE HEARING LOG.
- C. IF THE HEARING OFFICER CALLS WITNESSES, THE INCARCERATED INDIVIDUAL MAY SUBMIT QUESTIONS DIRECTED TOWARDS SUCH WITNESSES TOWARDS THE HEARING OFFICER. THE HEARING OFFICER SHALL POSE SUCH QUESTIONS TO THE WITNESS IF RELEVANT, NOT REDUNDANT AND WHEN IN DOING SO WOULD NOT JEOPARDIZE THE SECURITY, SAFETY AND GOOD ORDER OF THE FACILITY. THE HEARING OFFICER MAY RESTATE SUCH QUESTION IF IT IS UNCLEAR OR IN IMPROPER FORM. THE HEARING OFFICER'S DETERMINATION THAT A PARTICULAR QUESTION IS IRRELEVANT, REDUNDANT OR WILL JEOPARDIZE THE SECURITY, SAFETY AND GOOD ORDER OF THE FACILITY SHALL BE DOCUMENTED IN THE HEARING LOG.
- D. THE INCARCERATED INDIVIDUAL MAY BE EXCLUDED FROM THE HEARING DURING THE INTERVIEW OF WITNESSES IN ACCORDANCE WITH SUBDIVISION (C) OF THIS SECTION. THE CONTENTS OF SUCH INTERVIEW SHALL BE PROVIDED TO THE INCARCERATED INDIVIDUAL, EXCEPT FOR SUCH INFORMATION THAT, IF PROVIDED, WOULD JEOPARDIZE THE SECURITY, SAFETY AND GOOD ORDER OF THE FACILITY.
- E. NO CHARGES OTHER THAN THOSE CONTAINED IN THE MISBEHAVIOR REPORT SHALL BE PRESENTED DURING THE COURSE OF THE HEARING. ANY ADDITIONAL CHARGES BROUGHT AGAINST THE INCARCERATED INDIVIDUAL SHALL BE TREATED AS NEW CHARGES AND SHALL BE SUBJECT TO THE REQUIREMENTS OF THIS PART.

J. DISCIPLINARY DISPOSITION:

A DISPOSITION SHALL BE COMPLETED WITHIN 5 BUSINESS DAYS AFTER THE CONCLUSION OF THE HEARING. THE DISPOSITION SHALL BE SUPPORTED BY SUBSTANTIAL EVIDENCE AND SHALL IN WRITING CONTAIN THE FOLLOWING:

1. A FINDING OF GUILT OR INNOCENCE ON EACH CHARGE OF MISBEHAVIOR;
2. THE EVIDENCE RELIED UPON BY THE HEARING OFFICER IN REACHING SUCH FINDING;
3. THE SANCTION IMPOSED, IF ANY;

4. A COPY OF THE DISPOSITION SHALL BE PROVIDED TO THE INCARCERATED INDIVIDUAL;
5. NOTHING CONTAINED IN THIS PART SHALL PRECLUDE THE USE OF PLEA BARGAINING;
6. THE DISCIPLINARY HEARING FORMS WILL BE PLACED INTO THE INCARCERATED INDIVIDUALS FILE AND THIS INFORMATION WILL BE TRANSFERRED TO ANY AGENCY TAKING CUSTODY OF THE PRISONER;
 - A. IF THE INCARCERATED INDIVIDUAL IS FOUND NOT GUILTY, **THE INCARCERATED INDIVIDUALS FILE WILL BE EXPUNGED OF ALL REFERENCE TO THE CHARGES.**
 - B. WHENEVER THERE IS A NOT GUILTY FINDING ON ANY OF THE CHARGES, THE DISCIPLINARY HEARING OFFICER SHALL EDIT OUT THESE CHARGES WITH A BLACK MAGIC MARKER. ONLY CHARGES OF WHICH THE INCARCERATED INDIVIDUAL HAS BEEN FOUND GUILTY OF SHALL REMAIN ON RECORD.
7. ADVISE INCARCERATED INDIVIDUAL OF THE DISCIPLINARY APPEALS PROCESS;
8. NOTHING IN THIS PART SHALL PREVENT THE OFFICE OF THE MONTGOMERY COUNTY SHERIFF FROM BRINGING A CRIMINAL CHARGE AGAINST ANY INCARCERATED INDIVIDUAL IF THEIR CONDUCT VIOLATES NYS LAW.

K. DISCIPLINARY HEARINGS (INCARCERATED INDIVIDUAL ASSISTANCE):

1. ASSISTANCE FOR INCARCERATED INDIVIDUALS, WHO ARE NON-ENGLISH SPEAKING, ILLITERATE OR FOR ANY OTHER REASON UNABLE TO PREPARE A DEFENSE, SHALL BE AVAILABLE.
2. ASSISTANCE TO BE PROVIDED SHALL INCLUDE:
 - A. INTERVIEWING WITNESSES;
 - B. OBTAINING EVIDENCE OR EXISTING WRITTEN STATEMENTS;
 - C. PROVIDING ASSISTANCE AT THE HEARING;
 - D. UNDERSTANDING EVIDENCE RELIED ON BY THE DISCIPLINARY HEARING OFFICER AND UNDERSTANDING THE ACTIONS TAKEN;

- E. PROVIDING ASSISTANCE IN UNDERSTANDING ADMINISTRATIVE SEGREGATION DECISIONS;
- F. UNDERSTANDING THE WAIVER OF ANY RIGHTS.

L. DISCIPLINARY APPEALS:

1. ANY INCARCERATED INDIVIDUAL CONFINED AS A RESULT OF A DISCIPLINARY HEARING ORDER MAY FILE A WRITTEN APPEAL WITHIN 2 BUSINESS DAYS ON AN APPEAL FORM.
2. ANY SAID APPEAL SHALL BE DIRECTED TO THE JAIL ADMINISTRATOR AND MUST CONTAIN THE SPECIFIC GROUNDS FOR THE APPEAL.
3. THE JAIL ADMINISTRATOR SHALL REVIEW ALL RELEVANT DOCUMENTS, DECISIONS RENDERED AND RELEVANT POLICIES IN ORDER TO MAKE A FINAL DETERMINATION.
4. THE FINAL DETERMINATION SHALL BE MADE IN WRITING AND A COPY FORWARDED TO THE INCARCERATED INDIVIDUAL. A COPY OF THE DETERMINATION, IF THE DECISION WAS UPHELD, SHALL BE PLACED IN THE INCARCERATED INDIVIDUAL'S FILE.
5. THE JAIL ADMINISTRATOR MAY UPHOLD, REDUCE THE SANCTIONS IMPOSED OR OVERTURN THE ORIGINAL DECISION OF THE DISCIPLINARY HEARING OFFICER. HOWEVER, NO ADDITIONAL SANCTIONS OR INCREASES IN CURRENT SANCTIONS MAY BE IMPOSED AS PART OF AN APPEAL DECISION.
6. APPEALS SHALL BE DECIDED WITHIN 5 BUSINESS DAYS FROM THE DATE RECEIVED.

M. DISCIPLINARY RECORDS:

1. THE FOLLOWING DISCIPLINARY RECORDS SHALL BE MAINTAINED IN THE INCARCERATED INDIVIDUAL FILE:
 - A. INCIDENT REPORT (ORIGINAL);
 - B. SUPPLEMENTAL REPORT(S) (ORIGINAL);
 - C. REPORTABLE INCIDENT REPORT (IF APPLICABLE);

- D. USE OF FORCE REPORT (IF APPLICABLE);
- E. USE OF CHEMICAL AGENTS REPORT (IF APPLICABLE);
- F. MISBEHAVIOR REPORT;
- G. ADMINISTRATIVE SEGREGATION REPORT;
- H. FORMAL DISPOSITION ;
- I. SANCTIONS IMPOSED ;
- J. MODIFICATIONS TO SANCTION (IF APPLICABLE);
- K. WRITTEN APPEAL AND RESPONSE;

- 2. **NO RECORDS FROM ANY NOT GUILTY FINDING SHALL BE MAINTAINED IN THE INCARCERATED INDIVIDUAL FILE.**
- 3. INCARCERATED INDIVIDUAL RECORDS SHALL BE MADE ACCESSIBLE TO ANY PERSON WHO CAN VIEW ALL CRIMINAL RECORDS.