

# 3.1 Disciplinary System

## I. Purpose and Scope

This detention standard promotes a safe and orderly living environment for detainees by establishing a fair and equitable disciplinary system, requiring detainees to comply with facility rules and regulations, and imposing disciplinary sanctions to those who do not comply.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

## II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Detainees shall be informed of facility rules and regulations, prohibited acts, disciplinary sanctions that may be imposed, their rights in the disciplinary system and the procedure for appealing disciplinary findings.
2. Each facility shall have graduated severity scales of prohibited acts and disciplinary consequences.

3. Disciplinary segregation shall only be ordered when alternative dispositions may inadequately regulate the detainee’s behavior.
4. Where permitted by facility policy, staff shall informally settle minor transgressions through mutual consent, whenever possible.
5. Staff who have reason to suspect that a detainee has engaged in a prohibited act or who witness a prohibited act that cannot or should not be resolved informally, shall prepare a clear, concise and complete Incident Report.
6. Each Incident Report shall be objectively and impartially investigated and reported, ordinarily by a person of supervisory rank.
7. A serious incident that may constitute a criminal act shall be referred to the proper investigative agency as appropriate, and administrative investigations shall be suspended pending the outcome of that referral.
8. At each step of the disciplinary and appeal process, the detainee shall be advised in writing of his/her rights in a language he/she understands, and translation or interpretation services shall be provided as needed.
9. When a detainee has a diagnosed mental illness or mental disability, or demonstrates symptoms of mental illness or mental disability, a mental health professional, preferably the treating clinician, shall be consulted to provide input as to the detainee’s competence to participate in the disciplinary hearing, any impact the detainee’s mental illness may have had on his or her responsibility for the charged behavior, and information about any known mitigating factors in regard to the behavior.
10. A Unit Disciplinary Committee (UDC) shall further investigate and adjudicate the incident and may impose minor sanctions or refer the matter to a higher level disciplinary panel.
11. An Institution Disciplinary Panel (IDP) shall

conduct formal hearings on Incident Reports referred from investigations or UDCs and may impose higher level sanctions for “greatest” and “high” level prohibited acts.

12. Detainees before the IDP shall be afforded a staff representative, upon request, or automatically if the detainee is illiterate, has limited English language skills or otherwise needs special assistance.
13. Actions of the IDP shall be reviewed by the facility administrator, who may concur with the findings and sanctions or modify them.
14. At all steps in the disciplinary process, any sanctions imposed shall be commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future.
15. All steps of the disciplinary process shall be performed within the required time limits.
16. At all steps of the disciplinary process, accurate and complete records shall be maintained. The detainee shall receive copies of all reports, exhibits and other documents considered or generated in the hearing process, except insofar as the disclosure of such documents may pose an imminent threat to the safety, security and orderly conduct of the facility staff or other detainees, or if the document or other evidence is otherwise protected from disclosure.
17. If a detainee is found not guilty at any stage of the disciplinary process, the incident records shall not be placed or retained in the detainee’s file, even if these records are retained elsewhere for statistical or historical purposes.
18. Detainees shall be allowed to appeal disciplinary decisions through a formal grievance system. No staff member shall harass, discipline, punish or otherwise retaliate against any detainee for filing a complaint or grievance.
19. Detainees shall be afforded rights including, but

not limited to, the following: the right to protection from abuse; the right to freedom from discrimination; the right to pursue a grievance; the right to correspond with persons or organizations; and the right to due process.

20. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces “Disciplinary Policy” dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-3A-01, 3A-02, 6B-05, 6C-01 through 6C-19.

## V. Expected Practices

### A. Guidelines

1. Detainees with limited English proficiency (LEP) shall receive translation or interpretation services, and detainees with disabilities shall receive appropriate accommodations in order to meaningfully participate in the investigative, disciplinary, and appeal process.
2. Each facility holding ICE/ERO detainees in custody shall have a detainee disciplinary system with progressive levels of reviews, appeals, procedures and documentation procedures. Written disciplinary policy and procedures shall clearly define detainee rights and responsibilities. The policy, procedures and rules shall be reviewed annually at a minimum.
3. Disciplinary action may not be capricious or retaliatory nor based on race, religion, national origin, gender, sexual orientation, disability or political beliefs.
4. At all steps in the disciplinary process, any sanctions imposed shall be commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future.
5. Staff may not impose or allow imposition of the following sanctions: corporal punishment; deprivation of food services, to include use of Nutraloaf or “food loaf”; deprivation of clothing, bedding or items of personal hygiene; deprivation of correspondence privileges; deprivation of legal access and legal materials; or deprivation of indoor or outdoor recreation, unless such activity would create a documented unsafe condition within the facility. Any sanction imposed shall be approved by the facility administrator and reviewed by the Field Office Director.
6. When a detainee has a diagnosed mental illness or mental disability, or demonstrates symptoms of mental illness or mental disability, a mental health professional, preferably the treating clinician, shall be consulted to provide input as to the detainee’s competence to participate in the disciplinary hearing, any impact the detainee’s mental illness may have had on his or her responsibility for the charged behavior, and information about any known mitigating factors in regard to the behavior.
7. The facility shall not hold a detainee accountable for his/her conduct if a medical authority finds him/her mentally incompetent. For purposes of these standards, a mentally incompetent individual is defined as an individual who is unable to appreciate the difference between appropriate and inappropriate behavior, or between “right” and “wrong.” Such an individual is not capable of acting in accordance with those norms and therefore, cannot be held responsible for his/her “wrongful” actions.
8. If a detainee has a mental disability or mental illness but is competent, the disciplinary process shall consider whether the detainee’s mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. A mental health professional should also be consulted as to whether certain types of sanctions, (e.g., placement in disciplinary segregation, loss of visits, or loss of phone calls) may be inappropriate because they would interfere with supports that are a part of the detainee’s treatment or recovery plan.
9. A person who cannot assist in his/her own defense because he/she lacks the ability to understand the nature of the disciplinary proceedings, as determined by a medical authority, shall be considered incompetent. Disciplinary proceedings against such a detainee shall be postponed until such time as the detainee is able to understand the nature of the disciplinary proceedings and to assist in his/her

own defense. If the detainee’s mental status does not improve within a reasonable amount of time, the officer must find the detainee incompetent to assist in his/her own defense, and note such finding on the Incident Report.

## B. Notice to Detainees

The detainee handbook, or supplement, issued to each detainee upon admittance, shall provide notice of the facility’s rules of conduct and prohibited acts, the sanctions imposed for violations of the rules, the disciplinary severity scale, the disciplinary process and the procedure for appealing disciplinary findings. Detainees shall have the following rights and shall receive notice of them in the handbook:

1. The right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage and harassment;
2. The right of freedom from discrimination based on race, religion, national origin, gender, sexual orientation, physical or mental ability, or political beliefs;
3. The right to pursue a grievance in accordance with procedures provided in the detainee handbook, without fear of retaliation;
4. The right to pursue a grievance in accordance with standard “6.2 Grievance System” and procedures provided in the detainee handbook.
5. The right to correspond with persons or organizations, consistent with safety, security and the orderly operation of the facility; and
6. The right to due process, including the prompt resolution of a disciplinary matter.

Copies of the rules of conduct, rights and disciplinary sanctions shall be provided to all detainees and posted in English, Spanish, and other languages spoken by significant segments of the population with limited English proficiency. Copies to be provided and posted are as follows:

1. Disciplinary Severity Scale;
2. Prohibited Acts; and
3. Sanctions.

## C. Disciplinary Severity Scale and Prohibited Acts

All facilities shall have graduated scales of offenses and disciplinary consequences as provided in this section.

*Prohibited acts are divided into four categories: “greatest,” “high,” “moderate” and “low moderate.” The sanctions authorized for each category shall be imposed only if the detainee is found to have committed a prohibited act (see “Appendix 3.1.A: Offense Categories”).*

### 1. Greatest Offenses

*The IDP shall impose and execute at least one sanction in the 1 through 5 range. Additional sanctions may be imposed and either executed or suspended, at the discretion of the panel.*

### 2. High Offenses

*The IDP shall impose and execute at least one sanction in the 1 through 12 range. Additional sanctions (1 through 12) may be imposed or may be suspended at the discretion of the panel.*

### 3. High Moderate Offenses

*The IDP shall impose at least one sanction in the 1 through 13 range, but may suspend any or all, once imposed. Similarly, the UDC shall impose at least one sanction in the 7 through 13 range, but may suspend any or all, once imposed.*

### 4. Low Moderate Offenses

*The IDP shall impose at least one sanction in the 1 through 9 range, but may suspend any or all, once imposed. Similarly, the UDC shall impose at least one sanction in the 3 through 9 range, but may suspend any or all, once imposed.*

## D. Incident Report

Officers who witness a prohibited act, or have reason to suspect one has been committed, shall immediately prepare and submit an Incident Report. All Incident Reports must state facts clearly, precisely and concisely, omitting no details that may prove significant. Reports also shall identify the officer(s), the detainee(s) and all witnesses to the incident.

Minor transgressions shall be settled informally and by mutual consent whenever possible. If, however, the officer involved thinks an informal resolution is inappropriate or unattainable, he or she shall prepare an Incident Report and submit it to the appropriate supervisor before the end of the assigned shift.

ICE/ERO pre-approval is required for use of ICE Incident Report forms in CDFs and IGSA facilities.

*The Incident Report shall cite the relevant rule or standard without quoting it in its entirety. (For example, in the event of destruction of government property, the report shall cite, briefly, "Code 218—Destroying Government Property," specify the exact manner in which the detainee is alleged to have violated the cited rule or standard, and include all relevant facts such as time, dates and places.)*

*If the officer observes anything unusual in the detainee's behavior or demeanor, he/she shall so note in the report. The reporting officer shall also list all staff, contract officers, and/or detainee witnesses to the incident and the disposition of any physical evidence (e.g., weapons, property, etc.) relating to the incident. The reporting officer shall sign the report and include title, date and time the report was signed. The shift supervisor shall review all Incident Reports before going off duty.*

## **E. Investigations**

All facilities shall have procedures in place to ensure that all Incident Reports are investigated within 24 hours of the incident.

The investigating officer must have supervisory rank or higher (unless prevented by personnel shortages) and shall have had no prior involvement in the

incident, as either witness or officer at the scene. If an officer below supervisory rank conducts the investigation, the shift supervisor shall review his/her report(s) for accuracy and completeness and sign them.

The investigating officer shall:

1. Commence the investigation within 24 hours of receipt of the Incident Report.
2. Advise the detainee of his/her right to remain silent at every stage of the disciplinary process, and ensure that he/she has a complete listing of detainee rights.
3. Complete the investigation within 72 hours of receipt of the Incident Report, barring exceptional circumstances.
4. Provide the detainee a copy of the Incident Report and notice of charges immediately after the conclusion of the investigation..
5. Terminate the administrative investigation, if the incident is under investigation on different grounds (i.e., the prohibited act is under criminal investigation), unless and until the agency with primary jurisdiction concludes its investigation or indicates it shall not pursue the matter.  
  
Contraband that may be evidence in connection with a violation of a criminal statute shall be preserved, inventoried, controlled and stored so as to maintain and document the chain of custody. Contraband shall be reported to the appropriate law enforcement authority for action and possible seizure and prosecution. See "Preservation of Evidence" in standard "2.10 Searches of Detainees."
6. Advise the detainee in writing of his/her due process rights before the UDC, or before the IDP if the case is being referred directly to the IDP, as provided in this standard.
7. Record personal observances and other potentially material information.

8. Prepare a factual report of the investigation, including the location or disposition of any physical evidence.
9. Forward to the UDC or directly to the IDP all reports relevant to the disciplinary hearing—..

## F. Unit Disciplinary Committee (UDC)

All facilities shall establish an intermediate level of investigation/adjudication process to adjudicate low or moderate infractions. They shall also ensure that the detainee is afforded all the UDC rights listed below.

The UDC administering unit discipline shall comprise up to three members, at least one of whom is a supervisor. The UDC shall not include the reporting officer, the investigating officer, or an officer who witnessed or was directly involved in the incident, except in the unlikely event that every available officer witnessed or was directly involved in the incident.

The UDC shall conduct hearings and, to the best extent possible, shall informally resolve cases involving high moderate or low moderate charges in accordance with the list of charges and related sanctions noted as “Appendix 3.1.A: Offense Categories.” Unresolved cases and cases involving serious charges are forwarded to the institution disciplinary panel, and may be referred to the IDP without a hearing.

The UDC shall have authority to:

1. conduct hearings and resolve incidents involving high moderate or low moderate charges;
2. consider written reports, statements and physical evidence;
3. hear pleadings on the part of the detainee;
4. make findings that a detainee did or did not commit the rule violation(s) or prohibited act(s) as charged, based on the preponderance of evidence; and

5. impose minor sanctions in accordance with the table of prohibited acts and associated sanctions later in this document; minor sanctions are those listed sanctions other than initiation of criminal proceedings, recommended disciplinary transfer, disciplinary segregation, or monetary restitution.

The detainee in UDC proceedings shall have the right to due process, which includes the rights to:

1. remain silent at any stage of the disciplinary process;
2. have a UDC hearing within 24 hours after the conclusion of the investigation, unless the detainee:
  - a. waives the notification period and requests an immediate hearing, or
  - b. requests more time to gather evidence or otherwise prepare a defense;
3. attend the entire hearing (excluding committee deliberations), or waive the right to appear.

If security considerations prevent detainee attendance, the committee must document the security considerations and, to the extent possible, facilitate the detainee’s participation in the process via telephonic testimony, document submission, written statements or questions to be asked of witnesses;

4. Present statements and evidence, including witness testimony on his/her own behalf; and
5. Appeal the committee’s determination through the detainee grievance process.

The UDC shall:

1. verify that the detainee has been advised of and afforded his/her due process rights, as provided above in this standard;
2. refer to the IDP any incident involving a serious violation that may result in the following sanctions: initiation of criminal proceedings, recommended disciplinary transfer, disciplinary

segregation, or monetary restitution. This includes all code violations in the “greatest” and “high” categories (100s and 200s), and must include code violations in the “high moderate” category (300s) in order for any of the sanctions listed above to be imposed;

3. serve the detainee with:
  - a. a copy of the UDC decision which must contain the reason for the disposition and sanctions imposed; or
  - b. written notification of charges and hearing before the IDP; and
4. if the detainee’s case is being referred to the IDP, advise the detainee, in writing, of his/her due process rights as provided in this standard.

## G. Staff Representation for the IDP

The facility administrator shall upon the detainee’s request, assign a staff representative to help prepare a defense prior to the commencement of the IDP. This help shall be automatically provided for detainees who are illiterate, have limited English-language skills, or who are without means of collecting and presenting essential evidence. Detainees shall also have the option of receiving assistance from another detainee of their selection rather than a staff representative, subject to approval from the facility administrator.

1. *A staff representative must be a full-time employee.*
2. *Because of the potential conflict of interest, the facility administrator, members of the IDP and of the UDC initially involved in the case, eyewitnesses, the reporting and investigating officers and anyone else with a stake in the outcome shall not act as staff representative.*
3. *The detainee may select his/her staff representative, barring those identified in paragraph 2 above.*

4. *The IDP shall arrange for the presence of the staff representative selected by the detainee. If that staff member declines or is unavailable, the detainee may:*
  - a. *select a different representative;*
  - b. *wait for the unavailable staff member to become available (within a reasonable period);*  
*or*
  - c. *proceed without a staff representative.*
5. *A staff member who declines to serve must state the reason on the staff representative form.*
6. *If several staff decline, the facility administrator shall assign one.*
7. *The staff representative shall be free to speak to witnesses and to present evidence on the detainee’s behalf, including evidence of any mitigating circumstances. The staff representative must act in good faith on behalf of the charged detainee, and interview witnesses and obtain documentary evidence as requested by the detainee or as otherwise reasonably seen as relevant to the defense of the charges or in mitigation of the charges.*
8. *The IDP shall allow the staff representative enough time to speak with the detainee and interview witnesses prior to commencement of the proceeding. The IDP may grant a request for extension of time if required for an adequate defense.*
9. *The IDP shall establish the reliability of information provided by a confidential source before considering it in the disciplinary proceedings.*
10. *The IDP may withhold the confidential source’s identity from the staff representative. While the staff representative may challenge the substance of any confidential information the IDP discloses, he/she may not question its reliability (which is pre-established by the IDP).*

11. *In the event that a detainee cannot effectively present his/her own case, the facility administrator shall appoint a staff representative, even if not requested by the detainee.*

## H. Institution Disciplinary Panel (IDP)

All facilities that house ICE/ERO detainees shall have a higher level disciplinary panel to adjudicate detainee Incident Reports. Only the disciplinary panel may place a detainee in disciplinary segregation.

The term “Institution Disciplinary Panel” or “IDP” refers either to a three-person panel appointed by the facility administrator, or a one-person disciplinary hearing officer, depending on the practice at the facility.

The panel may not include the reporting officer, the investigating officer, any member of the referring UDC, or anyone who witnessed or was directly involved in the incident. Exceptions may occur only if the number of officers required for the panel cannot be filled due their direct involvement in the incident.

The IDP may receive incident reports following a referral from the UDC or directly from the investigative officer following the conclusion of the investigation.

The IDP shall have authority to:

1. conduct hearings on all charges and allegations referred by the UDC or sent directly from the investigating officer;
2. call witnesses to testify;
3. consider written reports, statements, physical evidence and oral testimony;
4. hear pleadings by detainee and staff representative;
5. make findings that the detainee did or did not commit the rule violation(s) or prohibited act(s) as charged, based on the preponderance of

evidence; and

6. impose sanctions as listed and authorized in each category.

The detainee in IDP proceedings shall have the right to due process, which includes the rights to:

1. remain silent at any stage of the disciplinary process;
2. have an IDP hearing within 48 hours after the conclusion of the investigation or the conclusion of the UDC hearing, unless the detainee:
  - a. waives the notification period and requests an immediate hearing, or
  - b. requests more time to gather evidence or otherwise prepare a defense;
3. attend the entire hearing (excluding committee deliberations), or waive the right to appear.

If security considerations prevent the detainee’s attendance, the committee must document the security considerations and, to the extent possible, facilitate the detainee’s participation in the process by telephonic testimony, the submission of documents, written statements or questions to be asked of witnesses;

4. present statements and evidence, including witness testimony, on his/her behalf;
5. have a staff representative; and
6. appeal the committee’s determination through the detainee grievance process.

The IDP shall:

1. verify that the detainee has been advised of and afforded his/her due process rights, as provided above in this standard;
2. remind the detainee of his/her right to a staff representative, provide one if requested and verify that a staff representative has been assigned when a representative is requested;
3. advise the detainee of his/her right to waive the

- hearing and admit having committed the offense;
4. conduct the hearing within 48 hours after the conclusion of the investigation or the conclusion of the UDC hearing, unless the detainee requests more time to gather evidence or otherwise prepare a defense. In cases where a hearing is delayed, the reason(s) must be documented (e.g., a continuing investigation of facts, unavailability of one or more essential witnesses, etc.) and, unless the detainee has requested the delay, approved by the facility administrator. If the detainee is being held in segregation, the delay shall not exceed 72 hours, barring an emergency;
  5. prepare a written record of any hearing. This record must show that the detainee was advised of his/her rights. It must also document the evidence considered by the Panel and subsequent findings and the decision and sanctions imposed, along with a brief explanation;
  6. forward the entire record to the facility administrator, who may (a) concur, (b) terminate the proceedings or (c) impose more severe or more lenient sanctions; and
  7. serve the detainee with written notification of the decision, which must contain the reason for the decision.

## I. Confidential Information

When a decision relies on information from a confidential source, the UDC or IDP shall disclose as much confidential information as may be disclosed without jeopardizing the safety and security of facility staff and other persons, and shall include in the hearing record the factual basis for finding the information reliable.

## J. Postponement of Disciplinary Proceedings

All facilities shall permit hearing postponements or continuances under certain circumstances.

Circumstances justifying the postponement or

continuance of a hearing might include, but are not limited to: defense preparation, physical or mental illness, security, escape, disciplinary transfer or pending criminal prosecution.

An uncooperative detainee may also cause a delay in the proceedings, either because of inappropriate behavior during the hearing process or a refusal to participate in a productive manner.

## K. Duration of Sanctions

The duration of sanctions shall be within established limits. Neither the panel recommending sanctions nor the facility administrator making the final decision shall impose sanctions arbitrarily, beyond these limits.

1. Sanctions range from the withholding of privilege(s) to segregation. Disciplinary segregation shall only be ordered when alternative dispositions may inadequately regulate the detainee's behavior.
2. Time in segregation or the withholding of privileges after a hearing shall generally not exceed 30 days per incident, except in extraordinary circumstances, such as violations of offenses 100 through 109 listed in the "Greatest" offense category in Appendix 3.1.A.
3. While a detainee may be charged with multiple prohibited acts and may receive multiple sanctions for one incident, sanctions arising from a single incident shall run concurrently.
4. Time served in segregation pending the outcome of the proceedings shall be credited to the number of days to be spent in the segregation unit after an adverse decision is announced.
5. The detainee's good behavior subsequent to the rule violation or prohibited act should be given consideration when determining the appropriate penalty.
6. The disciplinary report and accompanying documents are not placed in the file of a detainee

who is found not guilty. The facility, however, may retain the material in its own files for Institution statistical or historical purposes.

## L. Documents

All documents relevant to the incident, subsequent investigation and hearing(s) shall be completed and distributed in accordance with facility procedures.

### 1. Incident Report/Notice of Charges

The officer shall prepare an Incident Report and submit it to the supervisor immediately after the incident takes place. If the incident is resolved informally, the officer shall so note on the original report, which shall then be forwarded to the Chief of Security.

*If the UDC is to be involved, the supervisor shall serve the detainee with a copy of the Notice of Charges upon completion of the investigation, no less than 24 hours before the UDC hearing.*

*The UDC receives the original copy.*

*If the UDC hears the matter, the ranking member of that committee shall serve the detainee with a copy of the Incident Report/Notice of Charges indicating their decision. The UDC, upon conclusion of its proceedings, shall forward the entire record to either the Chief of Security or the IDP, as appropriate.*

### 2. Investigation Report

*The original shall be submitted to the UDC.*

*The detainee does not receive a copy.*

### 3. UDC Report of Findings and Action

*The original shall be served on the detainee after the committee issues its findings.*

*A copy shall be included in the detainee detention file (guilty finding only).*

### 4. Notice of IDP Hearing

*The original shall be served on the detainee after the committee issues its findings.*

*A copy shall be included in the detainee detention file.*

### 5. Detainee Rights at IDP Hearing

*The original shall be served on the detainee after the committee issues its findings.*

*A copy shall be included in the facility detention file.*

### 6. IDP Report

*The original shall be included in the detainee detention file.*

*A copy shall be provided to the detainee.*

## M. Criminal Prosecution

Facilities, in coordination with the Field Office Director, shall work with prosecutors and other law enforcement officials to ensure that detainees who engage in serious criminal activity, including violence against staff and other detainees, face criminal prosecution when appropriate.

*charge of greatest severity is not applicable)*

# Appendix 3.1.A: Offense Categories

## I. "Greatest" Offense Category

### A. Prohibited Acts

- 100 *Killing*
- 101 *Assaulting any person (includes sexual assault)*
- 102 *Escape from escort; escape from a secure facility*
- 103 *Setting a fire (charged with this act in this category only when found to pose a threat to life or a threat of serious bodily harm or in furtherance of a prohibited act of greatest severity [e.g., a riot or an escape]; otherwise the charge is classified as Code 222, 223 or 322))*
- 104 *Possession or introduction of a gun, firearm, weapon, sharpened instrument, knife, dangerous chemical, explosive, escape tool, device or ammunition*
- 105 *Rioting*
- 106 *Inciting others to riot*
- 107 *Hostage-taking*
- 108 *Assaulting a staff member or any law enforcement officer*
- 109 *Threatening a staff member or any law enforcement office with bodily harm*
- \*198 *Interfering with a staff member in the performance of duties (conduct must be of the greatest severity; this charge is to be used only if another charge of greatest severity is not applicable)*
- \*199 *Conduct that disrupts or interferes with the security or orderly running of the facility (conduct must be of the greatest severity; this charge is to be used only if another*

### B. Sanctions

- 1. *Initiate criminal proceedings*
- 2. *Disciplinary transfer (recommend)*
- 3. *Disciplinary segregation (up to 60 days)*
- 4. *Make monetary restitution, if funds are available*
- 5. *Loss of privileges (e.g., commissary, vending machines, movies, recreation, etc.)*

## II. "High" Offense Category

### A. Prohibited Acts

- 200 *Escape from unescorted activities open or secure facility, proceeding without violence*
- 201 *Fighting, boxing, wrestling, sparring and any other form of physical encounter, including horseplay, that causes or could cause injury to another person, except when part of an approved recreational or athletic activity*
- 202 *Possession or introduction of an unauthorized tool*
- 203 *Loss, misplacement or damage of any restricted tool*
- 204 *Threatening another with bodily harm*
- 205 *Extortion, blackmail, protection and demanding or receiving money or anything of value in return for protection against others, avoiding bodily harm or avoiding a threat of being informed against*
- 206 *Engaging in sexual acts*
- 207 *Making sexual proposals or threats*
- 208 *Wearing a disguise or mask*
- 209 *Tampering with or blocking any lock device*
- 210 *Adulterating of food or drink*
- 211 *Possessing, introducing, or using narcotics, narcotic paraphernalia or drugs not prescribed for the individual by the medical*

- staff
- 212 Possessing an officer's or staff member's clothing
- 213 Engaging in or inciting a group demonstration
- 214 Encouraging others to participate in a work stoppage or to refuse to work
- 215 Refusing to provide a urine sample or otherwise cooperate in a drug test
- 216 Introducing alcohol into the facility
- 217 Giving or offering an official or staff member a bribe or anything of value
- 218 Giving money to, or receiving money from, any person for an illegal or prohibited purpose (e.g., introducing/conveying contraband)
- 219 Destroying, altering, or damaging property (government or another person's) worth more than \$100
- 220 Being found guilty of any combination of three or more high moderate or low moderate offenses within 90 days
- 222 Possessing or introducing an incendiary device (e.g., matches, lighter, etc.)
- 223 Engaging in any act that could endanger person(s) and/or property
- \*298 Interfering with a staff member in the performance of duties (conduct must be of highest severity; this charge is to be used only when no other charge of highest severity is applicable)
- \*299 Conduct that disrupts or interferes with the security or orderly operation of the facility (conduct must be of highest severity; this charge is to be used only when no other charge of highest severity is applicable)

## B. Sanctions

1. Initiate criminal proceedings
2. Disciplinary transfer (recommend)
3. Disciplinary segregation (up to 30 days)
4. Make monetary restitution, if funds are available
5. Loss of privileges (e.g., commissary, vending machines, movies, recreation, etc.)
6. Change housing
7. Remove from program and/or group activity
8. Loss of job
9. Impound and store detainee's personal property
10. Confiscate contraband
11. Restrict to housing unit
12. Warning

## III. "High Moderate" Offense Category

### A. Prohibited Acts

- 300 Indecent exposure
- 301 Stealing (theft)
- 302 Misusing authorized medication
- 303 Loss, misplacement or damage of a less restricted tool
- 304 Lending property or other item of value for profit/increased return
- 305 Possessing item(s) not authorized for receipt or retention and not issued through regular channels
- 306 Refusing to clean assigned living area
- 307 Refusing to obey the order of a staff member or officer (may be categorized and charged as a greater or lesser offense, depending on the kind of disobedience: continuing to riot is Code 105—Rioting; continuing to fight Code 201—Fighting; refusing to provide a urine sample, Code 215—Refusing to provide a urine sample or otherwise

- cooperate in a drug test).*
- 308 *Insolence toward a staff member*
- 309 *Lying or providing false statement to staff*
- 310 *Counterfeiting, forging or other unauthorized reproduction of money proceedings or other official document or item (e.g., security document, identification card, etc.); may be categorized as greater or lesser offense, depending on the nature and purpose of the reproduction (e.g., counterfeiting release papers to effect escape—Code 102 or 200).*
- 311 *Participating in an unauthorized meeting or gathering*
- 312 *Being in an unauthorized area*
- 313 *Failing to stand count*
- 314 *Interfering with count*
- 315 *Making, possessing, or using intoxicant(s)*
- 316 *Refusing a breathalyzer test or other test of alcohol consumption*
- 317 *Gambling*
- 318 *Preparing or conducting a gambling pool*
- 319 *Possessing gambling paraphernalia*
- 320 *Unauthorized contact with the public*
- 321 *Giving money or another item of value to, or accepting money or another item of value from, anyone, including another detainee, without staff authorization*
- 322 *Destroying, altering, or damaging property (government or another person's) worth equal to or less than \$100*
- 323 *Signing, preparing, circulating, or soliciting support for group petitions that threaten the security or orderly operation of the facility.*
- \*398 *Interfering with a staff member in the performance of duties (offense must be of*

*high moderate severity; this charge to be used only when no other charge in this category is applicable)*

- \*399 *Conduct that disrupts or interferes with the security or orderly running of the facility (offense must be of high moderate severity; this charge is to be used only when no other charge in this category is applicable)*

*NOTE: Any combination of high moderate and low moderate offenses during a 90-day period shall constitute a high offense.*

### **B. Sanctions**

1. *Initiate criminal proceedings*
2. *Disciplinary transfer (recommend)*
3. *Disciplinary segregation (up to 72 hours)*
4. *Make monetary restitution, if funds are available*
5. *Loss of privileges (e.g. commissary, vending machines, movies, recreation, etc.)*
6. *Change housing*
7. *Remove from program and/or group activity*
8. *Loss of job*
9. *Impound and store detainee's personal property*
10. *Confiscate contraband*
11. *Restrict to housing unit*
12. *Reprimand*
13. *Warning*

### **IV. "Low Moderate" Offense Category**

#### **A. Prohibited Acts**

- 400 *Possessing property belonging to another person*
- 401 *Possessing unauthorized clothing*
- 402 *Malingering; feigning illness*
- 403 *Smoking where prohibited*

- 404 *Using abusive or obscene language*
- 405 *Tattooing, body piercing or self-mutilation*
- 406 *Unauthorized use of mail or telephone (with restriction or temporary suspension of the abused privileges often the appropriate sanction)*
- 407 *Conduct with a visitor in violation of rules and regulations (with restriction or temporary suspension of visiting privileges often the appropriate sanction)*
- 408 *Conducting a business*
- 409 *Possessing money or currency, unless specifically authorized*
- 410 *Failing to follow safety or sanitation regulations*
- 411 *Unauthorized use of equipment or machinery*
- 412 *Using equipment or machinery contrary to posted safety standards*
- 413 *Being unsanitary or untidy; failing to keep self and living area in accordance with posted standards*

- \*498 *Interfering with a staff member in the performance of duties (offense must be of low moderate severity; this charge is to be used only when no other charge in this category is applicable)*
- \*499 *Conduct that disrupts or interferes with the security or orderly running of the facility (offense must be of low moderate severity; this charge is to be used only when no other charge in this category is applicable)*

### **B. Sanctions**

1. *Loss of privileges, commissary, vending machines, movies, recreation, etc.*
2. *Change housing*
3. *Remove from program and/or group activity*
4. *Loss of job*
5. *Impound and store detainee's personal property*
6. *Confiscate contraband*
7. *Restrict to housing unit*
8. *Reprimand*
9. *Warning*