

# Reporting Procedures for Rule Violations

Page 1 of 4

Policy #809.03

Chapter: Prisoner Rules and Discipline

## Policy

- A. The Superintendent of each facility shall establish and maintain a disciplinary system that includes informal and formal procedures for rule violations, procedures to ensure impartiality in the disciplinary process, and a Disciplinary Committee/Hearing Officer.
- B. The institution shall refer a prisoner's rule violation to the District Attorney if the violation is a potential felony under a felony criminal statute.
- C. The institution shall give all prisoners advance notice if they must appear for a hearing before the Disciplinary Committee/Hearing Officer.

## Procedures

- A. **Reporting a Rule Violation.** A staff member who witnessed or has the most direct knowledge of a prisoner's rule violation shall promptly prepare an incident report (form 809.03) for all low-moderate or higher infractions. 22 AAC 05.410(a)-(b). The employee may verbally inform the prisoner that he or she is preparing a report.
  1. The staff member shall complete the report before the end of his or her shift, unless the Superintendent or designee allows an extension of time. The report must include:
    - a. the prisoner's name, a citation to 22 AAC 05.400, and a description of the alleged infraction; 22 AAC 05.410(d)
    - b. details of the incident;
    - c. description of the disposition of physical evidence relating to the infraction, if any; 22 AAC 05.410(d)
    - d. identity of witnesses or existence of informants (informants need not be named if safety or security considerations warrant); and 22 AAC 05.410(d)
    - e. any informal action taken (if a minor infraction).
  2. The staff member shall send the Assistant Superintendent a separate report for each instance of prisoner misconduct. 22 AAC 05.410(c)
- B. **Assistant Superintendent Action.** The Assistant Superintendent shall either refer the incident report to the Disciplinary Committee/Hearing Officer for formal action, refer it for informal resolution, or file it in the prisoner's case record as an information report. The prisoner must be notified of the Assistant Superintendent's action. 22 AAC 05.410(c)

1. Disciplinary Report. If the Assistant Superintendent refers the incident report to the Disciplinary Committee/Hearing Officer for formal action, the report becomes a "Disciplinary Report." Staff shall:
  - a. give the accused prisoner a copy of the Disciplinary Report within five working days of the alleged infraction or the date that the prisoner is identified as a suspect, whichever occurs later, unless that action is likely to jeopardize an ongoing investigation by a law enforcement agency or the Department. In such a case, the institution shall give the prisoner a copy of the report after the investigation is complete; 22 AAC 05.410(d) and
  - b. forward the report to the Disciplinary Committee/Hearing Officer for a formal hearing under policy #809.04, Disciplinary Committee/Hearing Officer and Basic Operation.

2. Informal Resolution. The Assistant Superintendent may designate a staff member as a Resolution Officer. The Resolution Officer shall resolve minor, low-moderate, or high-moderate infractions that the Assistant Superintendent determines are inappropriate for formal disciplinary action. 22 AAC 05.405(a)

- a. The officer shall verbally correct, counsel, or advise the prisoner of the proper or acceptable behavior at the time of the misconduct.
- b. If the infraction is resolved, the resolution officer shall fill out the disposition section of the Incident Report and give the prisoner a copy of the report within five working days of the resolution. The officer shall file the report in the prisoner's case record as an "Informal Resolution Report."
- c. If the officer and prisoner do not informally resolve the infraction, the officer must return the incident report to the Assistant Superintendent for action under section B(1) above.

3. Information Report. If the Assistant Superintendent decides that no action is necessary, he or she shall file the report in the prisoner's case record as an "Information Report."

- a. An information report must include the same information as in section A(1) above, where applicable, 22 AAC 05.410(d).
- b. Any incident that may affect the security or orderly administration of the facility may also be included in an information report. 22 AAC 05.410(e).

**C. Filing the Incident Report.** See also policy #602.01, Prisoner Case Record Management.

1. The Assistant Superintendent shall file all incident reports (809.03), Disciplinary Committee/Hearing Officer findings and decisions, administrative appeals, and any related documents in the prisoner's case record if the prisoner is found guilty of a rule violation. 22 AAC 05.465(b)

2. If the Disciplinary Committee/Hearing Officer finds that the prisoner did not commit an infraction or if a finding of guilt is reversed on appeal, the Superintendent must remove the disciplinary report and related documents from the prisoner's case record. 22 AAC 05.465(a)
  3. The Superintendent shall file Information and Informal Resolution Reports in the prisoner's case record for purposes of program assessment. Informal Resolution and 22 AAC 05.465(c)
  4. The Department may not take any punitive action against a prisoner, except for informal resolution, because of an Information Report in the prisoner's case record. The Department, however, may consider verified acts of misbehavior in the dispositive phase of a disciplinary action. See 22 AAC 05.455(a). 22 AAC 05.465(d)
- D. Referring An Incident to the District Attorney. The Superintendent or designee shall promptly notify the appropriate law enforcement or prosecuting authority of an alleged infraction that, if established, would constitute a violation of a felony criminal statute. 22 AAC 05.460(a). (The Department must ensure that the prisoner has the opportunity for representation by counsel under 22 AAC 05.440(e) and hearing continuances under 22 AAC 05.425.)
1. The Superintendent shall request the status of any criminal charges against the prisoner within seven days of its referral and every 30 days thereafter until the District Attorney files a formal complaint with the court, declines to prosecute, or the court otherwise dismisses or concludes the action. 22 AAC 05.460(b). The Superintendent shall inform the Disciplinary Committee/Hearing Officer of the District Attorney's response.
  2. The Department's internal disciplinary process is a separate administrative action and may proceed independent of the court process. However, the Superintendent may postpone any disciplinary action against the prisoner until the conclusion of the criminal prosecution. 22 AAC 05.460(b)
- E. Notice To Prisoner of Disciplinary Hearing
1. The institution shall notify a prisoner in writing at least 48 hours in advance if the prisoner is scheduled to appear before a Disciplinary Committee/Hearing Officer. The notice must include:
    - a. a brief description of the agenda followed at a hearing under 22 AAC 05.420; 22 AAC 05.415(b)(1)
    - b. the prisoner's procedural opportunities under 22 AAC 05.430 - 22 AAC 05.445; and 22 AAC 05.415(b)(2)
    - c. a notice that the prisoner must inform the Committee/Hearing Officer in writing, no later than 24 hours before the hearing, of any witnesses or evidence that he or she may call or introduce at the hearing. 22 AAC 05.415(b)(3)

2. A prisoner may waive the 48 hour notice requirement by requesting an earlier appearance before the Committee/Hearing Officer. 22 AAC 05.415(a).
3. If a hearing advisor represents the prisoner under 22 AAC 05.440, at the prisoner's request, the advisor shall inform the Committee/Hearing Officer in writing of the witnesses or evidence that the prisoner wishes to call or introduce at the hearing. 22 AAC 05.415(c)

February 2, 1997  
Date

Margaret M. Pugh  
Margaret M. Pugh, Commissioner  
Department of Corrections

Authority:

- Cleary Final Order, 3AN-81-5274 CIV, Sept. 1990
- 22 AAC 05.400
- 22 AAC 05.405
- 22 AAC 05.410
- 22 AAC 05.415
- 22 AAC 05.420
- 22 AAC 05.425
- 22 AAC 05.430
- 22 AAC 05.440
- 22 AAC 05.445
- 22 AAC 05.455
- 22 AAC 05.460
- 22 AAC 05.465

Applicable Forms:

809.03