# COUNTY OF MONROE
OFFICE OF THE SHERIFF
ROCHESTER, NEW YORK

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## Reference:
- Part 7006 & 7032 of Title 9 of the Official Compilation of Codes, Rules & Regulations of the State of New York (9 NYCRR Part 7006 & 7032)

### Purpose:
To familiarize members and employees with the policies and procedures governing the administration of inmate discipline within the Monroe County Jail (MCJ) and Monroe Correctional Facility (MCF).

### Policy:
The Monroe County Sheriff's Office (MCSO) will institute and maintain a system for administering inmate discipline, which provides reasonable regulation of inmate behavior through the fair and consistent enforcement of rules for inmate conduct; which ensures the humane treatment of inmates and proper maintenance of discipline. This system will protect the health, safety, and security of all persons within the facility, while promoting inmate welfare and correctional treatment through the demonstration of acceptable standards for behavior.

## I. Standards for Inmate Behavior

#### A.
An inmate code of conduct consisting of a list of rules and regulations governing inmate behavior, along with a description of disciplinary procedures and sanctions, at MCJ and MCF will be contained in the Inmate Handbook.

#### B.
Each inmate will be provided with a legible copy of the Inmate Handbook during the intake classification process. Non-English speaking and illiterate inmates will be assisted with translation to understand the rules of inmate conduct.

#### C.
All inmates will be required to acknowledge that they have been provided the handbook by signing their name on the JB-310 Classification Notification Form. Staff will document on the form any inmate who refuses to accept a copy of the handbook. The deputy issuing these books will also sign his/her full name and IIBM# in the space provided.

#### D.
Staff personnel will be issued and acknowledge receipt of the Inmate Handbook before assuming duties within the jail/correctional facility. Staff will become thoroughly familiar with what is expected of inmates in custody, according to these regulations, and will enforce inmate compliance with jail/correctional facility rules.

## II. Initiating Inmate Disciplinary Proceedings

#### A.
When a staff member observes or has belief/information that an inmate has violated Jail Bureau rules and regulations or committed a criminal offense, she/he will notify their immediate supervisor and document the incident in the housing area's electronic log.
B. The supervisor will determine if the misbehavior warrants an infraction or may be resolved informally (counseling, cooling off period in confinement). If the supervisor determines that formal correction is required, he/she will order an infraction and incident report. The Duty Sergeant will be notified. Report(s) will document the event fully and provide the following information:

1. Name of inmate(s) involved.
2. Date(s) and time(s) and location(s) of the incident/alleged activity and when reported.
3. Specific rule(s) or law(s) allegedly violated.
5. Reporting deputy’s printed name and signature.
6. Identification of witnesses, if any.
7. Source(s) of the information provided, which, if confidential in nature, shall be listed on a separate Addendum Report (Categorized as a Restricted Distribution) to the hearing officer.
8. Description of any force used.
9. If applicable, the corrective action initiated or taken by staff.

C. When an investigation is deemed necessary, the investigation shall be conducted by a staff member not involved in the incident. An investigation report will be submitted prior to any disciplinary hearing. Staff will be guided by provisions of JBG-054 Criminal Investigation of Incidents Occurring in the Jail/Correctional Facility in responding to and handling incidents involving the possibility of criminal charges.

D. The completed incident package will be submitted to the duty sergeant for review at the conclusion of the investigation.

E. The duty sergeant/shift supervisor will review the incident package and note any further action(s) taken in the Sergeant Review. The entire report package will be routed up the chain-of-command to Jail Administration in a timely manner.

F. The Superintendent or his designee will review all incident report packages and determine the appropriate action (i.e., Disciplinary Hearing, Further Investigation, criminal review, Internal Affairs Review, Informal Resolution or No Further Action).

III. Conducting Inmate Disciplinary Proceedings

A. The Superintendent and/or his designee shall appoint one (1) or more impartial persons to serve as a hearing officer or as a member of a hearing panel.
B. The inmate will sign for and receive form JB-245A Notification of Infraction Hearing Disposition and a copy of the incident report. A disciplinary hearing will be conducted within fifteen (15) business days of receipt of the Notification of Infraction, but no sooner than twenty-four (24) hours following notification of charges. An inmate will be notified of a hearing date and may waive the twenty-four (24) hour waiting period by signing the waiver located on the Notification of Infraction in the presence of a staff witness. This waiver will not require that the disciplinary hearing be held within twenty-four (24) hours.

NOTE: If at the time of the infraction, an inmate has been immediately confined (PID placement); the disciplinary hearings will be held within fifteen (15) business days following said confinement.

C. The inmate shall be present at the hearing unless the inmate has waived his/her right to be present or the hearing officer has determined that the inmate’s presence will jeopardize the safety, security, or good order of the facility. Anytime an inmate is not present for the hearing, a waiver of the right to be present shall be made in writing and signed by the inmate. Should the inmate refuse to sign, it will be so noted on the hearing record and the hearing officer will:

1. Document the reason(s) for the absence or exclusion of the inmate in the inmate statement section of the hearing.

2. Conduct the hearing with all other pertinent provisions of this General Order and Part 7006 of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York (9NYCRR Part 7006). An inmate’s absence from proceedings will not be construed as an admission of guilt on his/her part.

3. Determine guilt or innocence based on facts presented during the hearing.

D. The hearing officer will provide the inmate an opportunity to explain his/her behavior and any mitigating circumstances for it. In addition,

1. The inmate may call witnesses on his/her behalf and present evidence in his/her defense provided these items are relevant, not redundant and do not jeopardize the safety, security and good order of the facility. If permission to call a witness or introduce evidence is denied, the hearing officer will document such in the hearing record.

2. If the hearing officer calls witnesses, the inmate may submit questions directed toward such witnesses to the hearing officer. The hearing officer shall pose such questions to the witness if relevant and not redundant, and when doing so would not jeopardize the safety, security, or good order of the facility. The hearing officer may restate such question if it is unclear or in improper form. A hearing officer’s determination that a particular question is irrelevant, redundant, or will jeopardize the safety, security, or good order of the facility shall be documented in the hearing record.

Note: If the hearing officer calls witnesses, the inmate may be excluded from the hearing during the interview of such witnesses. The contents of such interview shall be provided to the inmate, except for such information that, if provided, would jeopardize the safety, security, or good order of the facility.
E. The hearing officer will make his/her determination within five (5) business days after conclusion of the hearing and a copy of the determination shall be provided to the inmate. This determination must be supported by substantial evidence, be in writing, and 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.

F. If the charges are affirmed, the hearing officer may recommend imposition of one or more, of the sanctions listed below based upon the inmate’s past record and the severity of offense.

1. Verbal reprimand.
2. Confinement to a cell, room or in the Special Housing Unit for a specified period of time.
3. Loss of up to one hour of weekly visitation for a specified period of time.
4. Loss of a specified amount of good time (specific to local sentences).
5. Loss of one or more specified privileges for a specific time period.
6. Restitution for loss or damage of property made from existing or future funds in the inmate’s commissary account.
7. A surcharge not to exceed $25.00 may be applied for each infraction.

Note: The hearing officer may suspend a sanction for a period of up to thirty (30) days in order to assess the behavioral adjustment of the inmate. At the conclusion of this period, the hearing officer will determine if the sanction shall commence in whole or in part or be suspended in whole or in part.

G. The Superintendent and/or designee will review and approve all hearing disposition recommendations. He/She may reduce the recommended sanction or dismiss the charge(s) in the interest of justice.

H. As soon as possible after conclusion of the hearing, the hearing officer will inform the inmate of the disposition by forwarding him/her form JB-245A Notification of Infraction Hearing Disposition. If the disposition will necessitate action by a housing area or program area supervisor, (i.e., Inmate Visitation), the affected area supervisor will be provided with a copy of the disposition form. In such instances, information relating to restrictions, loss of privileges, or any other action taken in accordance with the infraction disposition will be recorded in the housing/program area logbook.

I. The bottom portion of the Notification of Infraction Hearing Disposition will be signed and dated by the staff member delivering the notification to the inmate. The inmate will sign to acknowledge receipt of the disposition. The signed copies will be forwarded to Jail Administration for placement in the inmate’s file. A copy of the hearing disposition will be maintained by the housing area and a copy will be issued to the inmate.
IV. Assistance to Inmates

A. In accordance with 9NYCRR, Part 7006.6, if an inmate is non-English speaking, illiterate or for any other reason is unable to prepare a defense, assistance will be provided to the inmate by a person designated by the Superintendent and/or designee at least twenty-four (24) hours prior to the inmate's disciplinary hearing.

B. Assistance to inmates will include:
   1. Interviewing witnesses;
   2. Obtaining evidence and/or written statements.
   3. Providing assistance at the disciplinary hearing.
   4. Providing assistance understanding administrative segregation decisions
   5. Providing assistance understanding the evidence relied on by the hearing officer and the reasons for action taken;
   6. Providing assistance understanding the waiver of any rights provided by 9 NYCRR Part 7006, and
   7. Providing assistance in filing an appeal.

C. The Superintendent and/or designee may limit the number of witnesses interviewed and the evidence and/or written statements obtained where it is determined that such witnesses, evidence and/or statements are irrelevant or redundant. This determination will be documented in the hearing record.

V. Loss of Good Time

A. If the infraction disposition involves any loss of good time, the hearing officer will forward a Loss of Good Time Report to Jail records to recalculate a new out-date for the inmate

B. The Notification of Hearing Disposition will reflect the adjusted out-date prior to being issued to the inmate.

C. Any surcharge will be deducted from the inmates commissary account. If there is insufficient funds in the account, a debit will be placed on the account and remain there until the debt is paid.

D. Any inmate who loses good time may petition the Superintendent for the restoration of the time. This will be done by completing form JB-351 Request for Good Time Restoration up to fourteen (14) calendar days before his/her original release date.

VI. Inmate Appeals Process

A. Inmates may appeal the hearing officer's disposition and any sanction imposed to the Superintendent by submitting a JB-235 Internal Communication Form within two (2) business days of being served with the disposition. All appeals shall be decided within five (5) business days after receipt and the inmate shall be notified in writing of the decision. The Superintendent may reduce or suspend all or part of the sanction, but not increase it.
B. Pursuant to 9NYCRR Part 7032.2, dispositions and sanctions resulting from disciplinary hearings shall not be the subject of a grievance to the New York State Commission of Correction.

VII. Infraction Record-keeping

A. A chronological log of infraction hearings will be maintained at the jail/correctional facility. Every infraction written will be recorded in this log, to include the following information:

1. The incident report and investigation if necessary.
2. A completed hearing disposition detailing the sanctions imposed.
3. Any appeals documents.

Note: Records generated pursuant to a disciplinary hearing in which an inmate is found not guilty of charges brought against him/her, after either the hearing or an appeal, will be kept confidential and will not be considered in making decisions pertaining to the inmate's participation in programs, services, or local conditional release, or in the granting or withholding of good behavior credits.

B. At the conclusion of the disciplinary process, the completed incident package and infraction hearing paperwork, along with all documentary evidence, will be placed in the inmate file maintained in the Jail Administration Office.

VIII. Inmate Confinement in Administrative Segregation pending Disciplinary Hearings

A. In accordance with 9NYCRR Part 7006.7:

1. An inmate 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.

2. Within twenty-four (24) hours of such confinement, the inmate will be provided with a written statement **JB-153 Notification of Confinement** setting forth the reason(s) for such confinement. The staff member issuing the Notification of Confinement will document the time the notification was issued in the housing area log and on **JB-152 Incident Report Cover Sheet**.

3. Upon receipt of the Notification of Confinement, the inmate will be provided with an opportunity to respond to such statement orally or in writing to the Superintendent or designee. Should the inmate provide an oral statement, such statement will be fully documented by staff in a Special Report and forwarded to the Superintendent in a timely manner.

4. The Superintendent or designee will review the administrative confinement within twenty-four (24) hours to determine if continued confinement is warranted and document this on the **JB-153 Notification of Confinement**. If continued confinement is warranted, a space for comments will be used detailing the reason.
Note: The above requirements for written/verbal notification and administrative review shall not apply in cases where administrative segregation is ordered for the safety, security and good order of the facility. This period of confinement is not to exceed twenty-four (24) hours (i.e., cooling off, pending investigation, classification review, etc.).

IX. Corporal Punishment

Corporal punishment of any nature is strictly prohibited. No member or employee shall inflict any type of physical force whatsoever, upon any inmate, as a form of punishment. Only force authorized by law will be utilized within the jail/correctional facility.

By Order of the Sheriff,

Todd K. Baxter